

OCTOBER 03, 2023

30(b)(6)
THOMAS KATO

<p>UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK</p> <p>KITCHEN WINNERS NY INC.,) Plaintiff,) vs.) Case No.:) 1:22-cv-05276-PAE</p> <p>ROCK FINTEK LLC,) Defendant.)</p> <hr/> <p>ROCK FINTEK LLC,) Counterclaimant and) Third-Party Plaintiff) vs.)</p> <p>KITCHEN WINNERS NY INC.,) Counterdefendant.)</p> <p>and)</p> <p>ADORAMA INC., HERSHEY) WEINER, JOSEPH MENDLOWITZ,) JNS CAPITAL HOLDINGS LLC) and JOEL STERN,) Third-Party Defendants.)</p> <hr/> <p>REMOTE DEPOSITION OF THOMAS KATO As (30(b)(6) Representative of Rock Fintek LLC Tuesday, October 3, 2023</p> <p>STENOGRAPHICALLY REPORTED BY: RHONDA HALL-BREUWET, RDR, CRR, CSR, CCR, LCR, FPR JOB NO. 1812</p>	<p>Page 3</p> <p>1 A P P E A R A N C E S:</p> <p>2 ATTORNEYS FOR KITCHEN WINNERS NY, ADORAMA,</p> <p>3 INC., AND JOSEPH MENDLOWITZ:</p> <p>4 LIPSIUS-BENHAIM LAW, LLP</p> <p>5 80-02 Kew Gardens Road</p> <p>6 Suite 1030</p> <p>7 Kew Gardens, New York 11415</p> <p>8 (212) 981-8449</p> <p>9 BY: ALEXANDER JARED SPERBER, ESQUIRE</p> <p>10 EMAIL: asperber@lipsiuslaw.com</p> <p>11</p> <p>12 ATTORNEYS FOR ROCK FINTEK LLC:</p> <p>13 POLLACK SOLOMON DUFFY LLP</p> <p>14 43 West 43rd Street</p> <p>15 Suite 174</p> <p>16 New York, New York 10036</p> <p>17 (617) 960-3118</p> <p>18 BY: PHILLIP RAKHUNOV, ESQUIRE</p> <p>19 LAUREN A. RIDDLE, ESQUIRE</p> <p>20 EMAIL: prakhunov@psdfirm.com</p> <p>21 lriddle@psdfirm.com</p> <p>22</p> <p>23</p> <p>24</p> <p>25 (Continued)</p>
<p>Page 2</p> <p>1</p> <p>2</p> <p>3</p> <p>4 October 3, 2023</p> <p>5 10:13 a.m. Eastern</p> <p>6</p> <p>7</p> <p>8 Deposition of THOMAS KATO, as</p> <p>9 (30(b)(6) Representative of Rock Fintek LLC,</p> <p>10 held remotely before Rhonda Hall-Breuwet,</p> <p>11 Registered Diplomate Reporter, Certified</p> <p>12 Realtime Reporter, Certified Shorthand</p> <p>13 Reporter (CA and TX), Licensed Court Reporter</p> <p>14 (TN), Certified Court Reporter (GA, LA, NJ,</p> <p>15 NM, NV, and WA), Florida Professional</p> <p>16 Reporter, and Notary Public of the State of</p> <p>17 Florida.</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 4</p> <p>1 ATTORNEYS FOR JNS CAPITAL HOLDINGS LLC AND</p> <p>2 JOEL STERN:</p> <p>3 AVRAM E. FRISCH LLC</p> <p>4 1372 Milford Terrace</p> <p>5 Teaneck, New Jersey 07666</p> <p>6 (201) 289-5352</p> <p>7 BY: AVRAM ELIEZER FRISCH, ESQUIRE</p> <p>8 EMAIL: frischa@avifrischlaw.com</p> <p>9</p> <p>10 ALSO PRESENT:</p> <p>11 HERSHEY WEINER</p> <p>12 BRAD GILLING</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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<p style="text-align: right;">Page 9</p> <p>1 CERTIFIED STENOGRAPHER: Raise your 2 right hand, please. 3 Mr. Kato, can you raise your right 4 hand. 5 Do you solemnly swear the testimony 6 you are about to give will be the truth, 7 the whole truth, and nothing but the truth? 8 THE WITNESS: Yes, I do. 9 THOMAS KATO, 10 as 30(b)(6) representative of Rock Fintek LLC, 11 acknowledged having been duly sworn to tell the 12 truth and testified upon his oath as follows: 13 EXAMINATION 14 BY MR. FRISCH: 15 Q. Good morning, Mr. Kato. My name is 16 Avram Frisch. I am the attorney for 17 third-party defendants Joel Stern and 18 JNS Holdings. We're here to talk about your 19 case with them. 20 You are testifying here today on 21 behalf of Rock Fintek LLC; correct? 22 A. Yes, I am. 23 Q. Okay. I believe Mr. Sperber will 24 have questions for you when I am done, on 25 behalf of his clients.</p>	<p style="text-align: right;">Page 11</p> <p>1 in? 2 A. Circumstances? One of them, I was 3 suing the broker for a noncompete agreement. 4 Q. And the others? 5 A. Not recently, no. And nothing 6 related to Rock Fintek. 7 Q. Okay. We'll go over the procedure 8 for the deposition, even though you probably 9 are aware. 10 I'm going to be asking you 11 questions. You're answering them under oath, 12 as you know. If you don't understand any of 13 the questions, please let me know, and I will 14 repeat or rephrase the question, however, to 15 help you. If you don't ask me to clarify, I'll 16 assume you understood it. 17 Is that clear to you? 18 A. Understood. 19 Q. And obviously if you don't hear me, 20 just ask me to speak up. 21 Also, please speak all your answers 22 aloud so the stenographer can take it down. 23 Don't say uh-huh or huh-uh or shake your head. 24 You know, say yes or no if it's a yes-or-no 25 question.</p>
<p style="text-align: right;">Page 10</p> <p>1 Can you state your name and address 2 for the record, please. 3 A. Thomas Kato. 4 MR. RAKHUNOV: Before you answer -- 5 he can give his business address rather 6 than his home address; correct? 7 MR. FRISCH: I'm fine with that. 8 MR. RAKHUNOV: Okay. 9 THE WITNESS: Thomas Kato, 1680 10 Michigan Avenue, Suite 800, Miami Beach, 11 Florida 33139. 12 (Stenographer requests 13 clarification.) 14 (Comments off the record.) 15 BY MR. FRISCH: 16 Q. All right. Have you ever testified 17 at a deposition before? 18 A. Yes, I have. 19 Q. What was the circumstances of that 20 deposition, or those depositions? 21 A. Other lawsuits. 22 Q. In regard to Rock Fintek? 23 A. Yes. 24 Q. What were the -- what were the 25 circumstances of the cases that you testified</p>	<p style="text-align: right;">Page 12</p> <p>1 And also obviously, as she already 2 noted, try to speak as loud as you can because 3 it is a little quiet. 4 You are -- this is a 5 videoconference, but it's the same as if you 6 were testifying in court or in person, and you 7 are under oath. 8 A. (Indiscernible.) 9 Q. Sorry? 10 A. Try to put this on. 11 Q. Are you able to hear me now? I 12 don't think your AirPods are working. 13 MR. RAKHUNOV: Thomas, you might 14 need to -- can you hear me? 15 MR. FRISCH: I don't think he can 16 hear us. 17 MR. RAKHUNOV: He might need to do 18 what I did with the options, the sound 19 options. 20 MR. FRISCH: We can't hear you. 21 CERTIFIED STENOGRAPHER: Do we want 22 to go off the record? 23 MR. FRISCH: Yeah, let's go off. 24 MR. RAKHUNOV: Let's go off the 25 record, and let's get him --</p>

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<p style="text-align: right;">Page 13</p> <p>1 MR. FRISCH: Yeah.</p> <p>2 (Break taken from 10:18 a.m. to</p> <p>3 10:21 a.m.)</p> <p>4 BY MR. FRISCH:</p> <p>5 Q. As I think I was saying, please</p> <p>6 speak up your answers so the court reporter can</p> <p>7 hear you, and be aware that you're under oath;</p> <p>8 and even though you're in a videoconference,</p> <p>9 it's the same as testifying in court.</p> <p>10 Is there anyone in the room with you</p> <p>11 right now?</p> <p>12 A. No.</p> <p>13 Q. Nobody's allowed -- you're not</p> <p>14 allowed to communicate with anybody in regard</p> <p>15 to answering the questions. No texting. Even</p> <p>16 your counsel is not allowed to (indiscernible)</p> <p>17 questions.</p> <p>18 A. Understood.</p> <p>19 (Stenographer requests</p> <p>20 clarification.)</p> <p>21 (Comments off the record.)</p> <p>22 BY MR. FRISCH:</p> <p>23 Q. Nobody can assist you in answering</p> <p>24 the questions. You have to answer them</p> <p>25 yourselves.</p>	<p style="text-align: right;">Page 15</p> <p>1 affect your ability to testify truthfully</p> <p>2 today?</p> <p>3 A. No.</p> <p>4 Q. All right. Let's just go through</p> <p>5 your background.</p> <p>6 What's your highest level of</p> <p>7 education?</p> <p>8 A. Highest level, I did an executive</p> <p>9 MBA at Harvard Business School.</p> <p>10 Q. Okay. When did you graduate from</p> <p>11 there?</p> <p>12 A. 2011 or '12.</p> <p>13 Q. Where did you go to college?</p> <p>14 A. I went to San Diego State for a</p> <p>15 little bit, but I didn't ever complete it.</p> <p>16 Q. Where did you graduate from high</p> <p>17 school?</p> <p>18 A. Saint Mary's Orchard Lake.</p> <p>19 Q. Where is that?</p> <p>20 A. West Bloomfield, Michigan.</p> <p>21 Q. Is that how you know Mr. Gilling?</p> <p>22 A. Yeah. We're -- we've known each</p> <p>23 other from Michigan for decades.</p> <p>24 Q. Okay. Since 2011, when you</p> <p>25 graduated from the Harvard Business School</p>
<p style="text-align: right;">Page 14</p> <p>1 If you need a break, just ask. As</p> <p>2 long as there's no pending question, we're</p> <p>3 happy to take a break for whatever you need.</p> <p>4 Just answer whatever question is pending.</p> <p>5 Other than with your attorney, have</p> <p>6 you discussed your testimony today with any</p> <p>7 individual?</p> <p>8 A. I had a discussion with my COO and</p> <p>9 my attorney yesterday.</p> <p>10 Q. Okay. Was the discussion with your</p> <p>11 COO with your attorney present --</p> <p>12 A. Yes.</p> <p>13 Q. -- or was that --</p> <p>14 A. Yes.</p> <p>15 Q. Did you review any documents for</p> <p>16 today?</p> <p>17 A. Yes, we did.</p> <p>18 Q. What documents did you review?</p> <p>19 A. The complaint, some bank statements,</p> <p>20 some purchase orders.</p> <p>21 Q. Right. And all those have been</p> <p>22 given to us by your attorney?</p> <p>23 A. He could answer that. I'm not sure.</p> <p>24 Q. Okay. Are you currently taking any</p> <p>25 medications or on other substances that would</p>	<p style="text-align: right;">Page 16</p> <p>1 program, what is your employment history?</p> <p>2 A. My employment history? I'm</p> <p>3 self-employed.</p> <p>4 Q. And what businesses have you been</p> <p>5 in?</p> <p>6 A. Merchant Hub, my payment processing</p> <p>7 company; Rock Fintek; and a holding company</p> <p>8 that just varied with different sort of</p> <p>9 reconciling accounts.</p> <p>10 Q. Okay. What's the name of the</p> <p>11 holding company?</p> <p>12 A. MHub Holdings and MHub Miami LLC.</p> <p>13 Q. And did you begin these activities</p> <p>14 prior to your attendance at Harvard Business</p> <p>15 School?</p> <p>16 A. Yes, some of them.</p> <p>17 Q. When did you form Rock Fintek LLC?</p> <p>18 A. I believe it was in 2018.</p> <p>19 Q. And at that time what was the</p> <p>20 purpose of that entity?</p> <p>21 A. To buy and sell goods from China to</p> <p>22 the US.</p> <p>23 Q. Was it specifically personal</p> <p>24 protective equipment or anything?</p> <p>25 A. No. No. Anything.</p>

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<p style="text-align: right;">Page 17</p> <p>1 Q. What state did you form it in? 2 A. Delaware. 3 Q. Who are the members of Rock Fintek 4 LLC? 5 A. Only me. 6 Q. Has that always been the case? 7 A. Yes. 8 Q. Is Rock Fintek LLC authorized to do 9 business in the state of New York? 10 A. I believe so. 11 Q. Do you know when it became so 12 authorized? 13 A. No, I don't. 14 Q. Is the entity currently in good 15 standing in the state of Delaware? 16 A. I believe it is. 17 Q. Do you know what business you 18 conduct in New York state? 19 A. I was selling PPE to the City of 20 New York and buying from Adorama. 21 (Stenographer requests 22 clarification.) 23 BY MR. FRISCH: 24 Q. All right. Did you also pick up and 25 deliver goods in New York?</p>	<p style="text-align: right;">Page 19</p> <p>1 Q. Okay. 2 MR. RAKHUNOV: I just want to make 3 sure. Rhonda, you did hear my objection -- 4 right? -- to the question of where is 5 Dimerco based out of? 6 CERTIFIED STENOGRAPHER: Yes, I did 7 hear that one. 8 MR. RAKHUNOV: Okay. Good. I 9 wanted to make sure. 10 BY MR. FRISCH: 11 Q. When did you first begin being 12 engaged in the sale of personal protective 13 equipment? Or as I will -- I will abbreviate 14 it PPE going forward, if that's okay with you. 15 A. Yes, it is. 2020. 16 Q. During COVID -- at the beginning of 17 COVID or before COVID? 18 A. At the beginning of COVID. 19 Q. Okay. Did you use any other 20 entities in that business? 21 A. I don't think I did, no. 22 Q. Okay. Is there a Rock Fintek LLC 23 currently existing in the state of -- that was 24 formed in the state of Florida? 25 A. Yes, there is.</p>
<p style="text-align: right;">Page 18</p> <p>1 MR. RAKHUNOV: Objection. 2 THE WITNESS: I believe we did. 3 (Stenographer requests 4 clarification.) 5 THE WITNESS: I believe we did. I'm 6 not positive. I would have to ask my COO, 7 but I believe we did in New York. 8 BY MR. FRISCH: 9 Q. Did you have sales -- did you have 10 sales representatives working in New York? 11 A. No. 12 MR. RAKHUNOV: Objection. 13 (Stenographer requests 14 clarification.) 15 (Comments off the record.) 16 BY MR. FRISCH: 17 Q. What about Alex King and the Dimerco 18 company? Were they based in New York? 19 MR. RAKHUNOV: Objection. 20 THE WITNESS: I'm not sure where 21 they're based. 22 BY MR. FRISCH: 23 Q. Do you know where they -- where Alex 24 King works out of? 25 A. I'm not sure.</p>	<p style="text-align: right;">Page 20</p> <p>1 Q. What is -- what was the purpose of 2 that LLC? 3 A. When we opened up the bank account, 4 the bank said they needed a Florida entity. 5 Instead of registering it with Sunbiz.org or 6 something, my office just went ahead and formed 7 a new entity. 8 Q. Okay. And which is the entity 9 currently operating? Is it the Delaware or the 10 Florida? 11 A. It was always the Delaware. 12 Q. Okay. So the entity that conducted 13 business with JNS was the Delaware entity? 14 A. Was the what? 15 Q. The Delaware entity? 16 A. Yes, it was. 17 Q. And the one that did business with 18 Kitchen Winners and Adorama was the Delaware 19 entity? 20 A. Yes. 21 Q. And the business that -- the 22 business that was done with Ascension was done 23 through the Delaware entity? 24 A. Correct. 25 Q. We are going to go to our first</p>

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<p style="text-align: right;">Page 21</p> <p>1 exhibit. I'm just trying to figure out which</p> <p>2 one it was. Oh, there it is. Okay.</p> <p>3 Can you see the exhibit I just</p> <p>4 shared?</p> <p>5 A. It's very small.</p> <p>6 Q. Okay. I think you can control</p> <p>7 the -- I think you can zoom in on the --</p> <p>8 there's a zoom-in button. I'm going to stamp</p> <p>9 this as -- I'm going to define it as JNS</p> <p>10 Exhibit A. We'll make ours red. Hold on. I</p> <p>11 didn't do it right. So let me do that again.</p> <p>12 JNS Exhibit A.</p> <p>13 (Exhibit Number JNS A, Letter from</p> <p>14 Winthrop B. Reed, III, to Tommy Kato d/b/a</p> <p>15 Rock Fintek, dated 3/16/22, Bates-stamped</p> <p>16 RF_001153 - 1154, was marked for</p> <p>17 identification.)</p> <p>18 BY MR. FRISCH:</p> <p>19 Q. Okay. Can you see it now?</p> <p>20 A. Yeah. I'm trying to zoom it in.</p> <p>21 Q. Okay. I'm going to direct you to</p> <p>22 the Footnote 1.</p> <p>23 A. Hold on. I'm trying to --</p> <p>24 Q. At the bottom of the first page. So</p> <p>25 when you have a chance -- you should be able to</p>	<p style="text-align: right;">Page 23</p> <p>1 BY MR. FRISCH:</p> <p>2 Q. Okay. Do you know of any reason --</p> <p>3 anything you may have communicated to them in</p> <p>4 regard to the name or formation of the LLC that</p> <p>5 would have led them to that understanding?</p> <p>6 A. Absolutely not.</p> <p>7 MR. RAKHUNOV: Objection.</p> <p>8 BY MR. FRISCH:</p> <p>9 Q. And as far as you're concerned, it</p> <p>10 was the Delaware LLC that was doing business</p> <p>11 with Ascension all along?</p> <p>12 A. Correct.</p> <p>13 Q. And that LLC had been formed prior</p> <p>14 to May 1st, 2021?</p> <p>15 A. Correct.</p> <p>16 Q. Okay.</p> <p>17 MR. RAKHUNOV: Sorry, Avi. Before</p> <p>18 you go next, as a matter of -- is it</p> <p>19 possible to pop out the exhibit into a</p> <p>20 separate browser? Is that functionality</p> <p>21 available?</p> <p>22 MR. FRISCH: I don't know.</p> <p>23 MR. RAKHUNOV: Okay. Well, we can</p> <p>24 -- maybe we'll ask during a break.</p> <p>25 MR. FRISCH: I know there is</p>
<p style="text-align: right;">Page 22</p> <p>1 scroll independently.</p> <p>2 A. So at the very bottom you're telling</p> <p>3 me to look?</p> <p>4 Q. Yes, where it says, "It is our</p> <p>5 understanding."</p> <p>6 A. Okay. "It is our understanding."</p> <p>7 Q. Yeah. Can you -- you can read that</p> <p>8 to yourself, and then I'll ask my question on</p> <p>9 it.</p> <p>10 A. (Reviewing document.)</p> <p>11 Okay.</p> <p>12 Q. Why did Ascension believe they were</p> <p>13 doing business with the Miami LLC that was</p> <p>14 formed in May 2021?</p> <p>15 MR. RAKHUNOV: Objection.</p> <p>16 THE WITNESS: I don't believe they</p> <p>17 did.</p> <p>18 BY MR. FRISCH:</p> <p>19 Q. So do you -- why did they believe</p> <p>20 that Rock Fintek LLC was only formed on</p> <p>21 May 1st, 2021?</p> <p>22 MR. RAKHUNOV: Objection.</p> <p>23 THE WITNESS: I don't know why</p> <p>24 they -- you think they might think that or</p> <p>25 if they think that.</p>	<p style="text-align: right;">Page 24</p> <p>1 somebody -- you know, I know you can -- you</p> <p>2 can ask somebody. So I don't know if it --</p> <p>3 if you make your screen bigger -- I think</p> <p>4 you can make the panel bigger or something.</p> <p>5 I don't know.</p> <p>6 MR. RAKHUNOV: You can make the</p> <p>7 witness face pop out but not the --</p> <p>8 MR. FRISCH: Okay. I don't know.</p> <p>9 There is a download button, but it doesn't</p> <p>10 seem to be enabled. I'm trying to figure</p> <p>11 it out. I don't know.</p> <p>12 Like I said, this is my first time</p> <p>13 using this. I just -- you know, anyway,</p> <p>14 we're done with it for the moment. So we</p> <p>15 can --</p> <p>16 MR. RAKHUNOV: We're fine.</p> <p>17 BY MR. FRISCH:</p> <p>18 Q. Okay. Prior to getting into the PPE</p> <p>19 business, what -- did you have any experience</p> <p>20 selling PPE?</p> <p>21 A. No.</p> <p>22 Q. So what made you get into -- into</p> <p>23 selling PPE?</p> <p>24 A. I started selling products for --</p> <p>25 other products, and then when COVID hit, the</p>

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<p style="text-align: right;">Page 25</p> <p>1 demand for those products weren't working. And</p> <p>2 I had relationships -- strong relationships in</p> <p>3 China that I could buy products from; so I</p> <p>4 wanted to see if anybody needed those products.</p> <p>5 Q. So did you -- how did you -- how did</p> <p>6 you get -- strike that.</p> <p>7 You say you had relationships for</p> <p>8 products. Were those PPE products you had</p> <p>9 relationships for at the beginning of COVID?</p> <p>10 A. A lot of the warehouses that were</p> <p>11 selling other products started manufacturing</p> <p>12 masks and other products.</p> <p>13 Q. And you -- you had direct sources of</p> <p>14 supply from China on those items?</p> <p>15 A. Yes.</p> <p>16 Q. Did you ever have a direct source of</p> <p>17 supply for nitrile gloves?</p> <p>18 A. I don't know what "direct" means. I</p> <p>19 mean --</p> <p>20 Q. Direct from the manufacturer.</p> <p>21 A. I never bought anything directly</p> <p>22 from any manufacturers. It was always</p> <p>23 intermediaries involved.</p> <p>24 Q. How about directly from China?</p> <p>25 (Stenographer requests</p>	<p style="text-align: right;">Page 27</p> <p>1 China?</p> <p>2 A. Well, they knew I was selling other</p> <p>3 products from China.</p> <p>4 Q. Got it.</p> <p>5 Was Ascension your first PPE</p> <p>6 customer, or were there others products before</p> <p>7 Ascension?</p> <p>8 A. Ascension, I believe, was the first.</p> <p>9 Q. What other companies did you have --</p> <p>10 what other customers did you have for PPE</p> <p>11 products?</p> <p>12 A. City of New York, Prisma Health,</p> <p>13 Delta Airlines, sheriff's department. I think</p> <p>14 Bell Tire. Next level was a couple dental</p> <p>15 distributors.</p> <p>16 Q. Did any of those customers buy</p> <p>17 nitrile gloves from you?</p> <p>18 A. I don't believe so.</p> <p>19 Q. Are any of those currently your</p> <p>20 customer, any of those entities?</p> <p>21 A. No.</p> <p>22 Q. Why not?</p> <p>23 A. Because I was too busy trying to</p> <p>24 salvage or clean up the mess with Ascension.</p> <p>25 Q. All right. When you say "the mess</p>
<p style="text-align: right;">Page 26</p> <p>1 clarification.)</p> <p>2 THE WITNESS: You don't -- I never</p> <p>3 spoke with the manufacturer when I was</p> <p>4 buying a product from them.</p> <p>5 BY MR. FRISCH:</p> <p>6 Q. What about directly from a warehouse</p> <p>7 in China? Did you have any source of nitrile</p> <p>8 gloves?</p> <p>9 MR. RAKHUNOV: Object.</p> <p>10 THE WITNESS: I don't believe so.</p> <p>11 BY MR. FRISCH:</p> <p>12 Q. How did you get introduced to</p> <p>13 Ascension?</p> <p>14 A. I got introduced from an</p> <p>15 acquaintance in St. Louis who I believe did</p> <p>16 real estate for them, the group did. I'm not</p> <p>17 sure of the person's name.</p> <p>18 They asked me, "Do you have any</p> <p>19 connections with any type of this product in</p> <p>20 China?"</p> <p>21 I said I can ask people I was buying</p> <p>22 other products from if they have it. I asked.</p> <p>23 They did, and then they -- that was it.</p> <p>24 Q. And why did they think you would</p> <p>25 have connections to this type of material in</p>	<p style="text-align: right;">Page 28</p> <p>1 with Ascension," what are you referring to?</p> <p>2 A. I am referring to the fake gloves</p> <p>3 that I sold them.</p> <p>4 Q. So you went out of business because</p> <p>5 you had a problem with Ascension? Is that your</p> <p>6 testimony?</p> <p>7 MR. RAKHUNOV: Objection.</p> <p>8 THE WITNESS: We went out of</p> <p>9 business -- I think it's a -- multiple</p> <p>10 reasons, but all to do with the gloves we</p> <p>11 purchased from Adorama.</p> <p>12 BY MR. FRISCH:</p> <p>13 Q. Can you explain that in detail, all</p> <p>14 the reasons.</p> <p>15 A. All the reasons. I -- I bought</p> <p>16 products which I believed were real, sold them</p> <p>17 to a company who I sold other product to and</p> <p>18 believed I was selling real products, and then</p> <p>19 they said they were fake products, and that was</p> <p>20 it.</p> <p>21 So I'm trying to mitigate damages</p> <p>22 and not -- don't have the funds nor the other</p> <p>23 clients to sell products to.</p> <p>24 Q. When did those other clients stop</p> <p>25 buying product from you?</p>

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<p style="text-align: right;">Page 29</p> <p>1 A. Stopped soliciting other customers 2 around the time of the summer, when all those 3 problems happened with Ascension. 4 Q. So around July 2021? Is that your 5 testimony? 6 A. I would say July or August, yes. 7 Q. And you stopped soliciting customers 8 because? 9 A. I was trying to do damage control 10 with Ascension. 11 Q. Was Ascension's contract with you 12 substantially larger than all the other ones? 13 A. Yes, I'd say it was. 14 Q. Did the end of COVID have any impact 15 on your business? 16 A. The end of COVID would have made the 17 business even stronger. 18 Q. How so? 19 A. We were making our own test kits to 20 sell to Ascension and to other hospital 21 systems. And without anything from Ascension, 22 then dealing with the fraud, we had to stop 23 everything. 24 Q. Can you explain what test kits 25 you're referring to?</p>	<p style="text-align: right;">Page 31</p> <p>1 sir? 2 A. My payment processing company called 3 Merchant Hub. It's been around for 15 years. 4 Q. Is there a reason why Ascension 5 referred to you on many of their correspondence 6 as MHub? 7 MR. RAKHUNOV: Objection. 8 THE WITNESS: I have an email 9 address that says MHub on it. So sometimes 10 they say MHub. Sometimes I responded with 11 a Rock Fintek email. But -- 12 BY MR. FRISCH: 13 Q. Okay. But did they know you as MHub 14 when they started dealing with you? 15 A. They knew I had two companies, and 16 MHub was not the company that was working with 17 them. So they said MHub a couple times, and I 18 said, "It's Rock Fintek." 19 Q. Okay. When did you first purchase 20 gloves from JNS? 21 A. I'm not exactly sure of the date, 22 but it was, I believe, December of 2020 or 23 January of 2021. 24 Q. Okay. And how were you introduced 25 to JNS?</p>
<p style="text-align: right;">Page 30</p> <p>1 A. Test kits to see if you have COVID, 2 the ones you buy in the pharmacy. 3 Q. And you were manufacturing those? 4 A. I was going to manufacture them as a 5 partner with a manufacturer in China. 6 Q. And were those approved by the FDA? 7 A. We hired FDA attorneys who were 8 speaking to the FDA to get them approved. 9 Q. And why didn't you continue with 10 that business? 11 A. Because I had to deal with the fraud 12 with Adorama. So I didn't have time or the 13 resources to do it. 14 Q. And so you -- you're saying that you 15 no longer had time because of what happened 16 with the gloves at issue in this case? You no 17 longer had time to -- 18 A. I'm saying I gave all my time to try 19 to resolve or mitigate the problem for 20 Ascension Health. 21 Q. Did Rock Fintek ever return to its 22 other pre-COVID businesses? 23 A. Rock Fintek went out of business 24 after this. It didn't have the opportunity. 25 Q. And how do you make a living today,</p>	<p style="text-align: right;">Page 32</p> <p>1 A. I believe it was a broker. 2 Q. Do you recall the name of the 3 broker? 4 A. I'm not positive, but it might be 5 Ms. Lee. 6 Q. And Ms. Lee was working for you? 7 A. No. She was a broker. She was an 8 outside party that -- I'm not sure exactly how 9 we came to meet her. I'd have to ask Bradley 10 Gilling. 11 Q. And -- 12 A. But she just got compensated for -- 13 as a broker for whatever sales she did. 14 Q. Did she find you any other deals 15 over the course of time? 16 A. I don't think we did any other 17 business since then. 18 Q. Okay. Is there a reason for that? 19 A. Again, because of -- stopped doing 20 business with everything else, just trying to 21 deal with Ascension. 22 Q. Do you know how Ms. Lee knew JNS? 23 A. No. 24 Q. Do you know if you purchased MedCare 25 gloves from any other vendor?</p>

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<p style="text-align: right;">Page 33</p> <p>1 A. I believe it was JNS and 2 Kitchen Winners and Adorama, which I think are 3 the same. I don't believe we got any from 4 anybody else. I would have to ask Bradley 5 Gilling, again. 6 Q. Now, so you know -- you got gloves 7 from JNS and you got gloves from 8 Adorama/Kitchen Winners, as you described them. 9 How did you keep track of which 10 gloves were from whom? 11 A. Actually, I also bought gloves from 12 Joel Stern directly himself. Sometimes he used 13 his business; sometimes he used his personal 14 name to sell me gloves. 15 Q. When did he sell you gloves 16 personally? 17 A. I'm not sure. Somewhere in the same 18 time, within that time frame, I bought products 19 from him. 20 Q. Do you know of any purchase orders 21 or other documents that show you purchasing 22 directly from Mr. Stern? 23 A. My lawyer might have some documents. 24 Q. Can you tell me where I'd find 25 those?</p>	<p style="text-align: right;">Page 35</p> <p>1 Q. Do you know if Mr. Stern -- 2 (Simultaneous speaking.) 3 BY MR. FRISCH: 4 Q. I'm sorry? You can finish. 5 A. What was that? 6 Q. I think you -- I talked over you by 7 accident. So you can just repeat what you 8 said. 9 MR. RAKHUNOV: It sounded like 10 feedback. 11 THE WITNESS: I said I could ask 12 Brad Gilling. I'm not positive who 13 was COO. 14 BY MR. FRISCH: 15 Q. Do you know if Mr. Stern personally 16 issued any invoices to you or if JNS issued the 17 invoices? 18 MR. RAKHUNOV: Objection. 19 THE WITNESS: He may have. I'm not 20 positive. I would have to ask. 21 BY MR. FRISCH: 22 Q. All right. Well, I'll call for 23 production of any such invoices, because I 24 don't -- do not have them. 25 Okay. And your testimony is that</p>
<p style="text-align: right;">Page 34</p> <p>1 A. You could ask him. 2 Q. I'm asking you. 3 A. I don't know where he would have 4 them. 5 Q. Do you know what the document -- 6 what document -- what the document said? 7 A. I know some of the documents might 8 be from Medline that came from Joel Stern. 9 This other guy, David Horowitz or something, it 10 had his name on there with some deliveries. 11 And bank accounts, I would have to ask Brad 12 Gilling on that maybe. 13 Q. Okay. Well, I mean, I would -- I 14 don't think I've seen any such documents. 15 So -- 16 A. Okay. 17 Q. -- I'm going to ask them to be 18 produced. 19 A. Okay. 20 Q. I'm going to take a note. 21 Do you know if there was any 22 purchase orders directed to Mr. Stern 23 personally? 24 A. Possibly, but not off the top of my 25 head. I would have to ask Brad.</p>	<p style="text-align: right;">Page 36</p> <p>1 you didn't purchase any MedCare gloves from any 2 other vendors; is that correct? 3 A. Right. That's correct. 4 Q. Did you purchase any other gloves 5 from any other vendors? 6 A. Yes. 7 Q. What gloves were those? 8 A. We purchased Ingco gloves, and I 9 believe we purchased -- I'm not sure what the 10 other brands were called. Maybe Safeko. I 11 have to check. I would have to ask Bradley 12 Gilling. 13 Q. So when you entered into the 14 contract with Ascension to provide them gloves, 15 did you have gloves sourced to fulfill that 16 contract? 17 A. Did we have gloves sourced? I told 18 them we would procure the gloves for them. 19 Q. But at the time that you entered 20 into the contract, you did not have any gloves? 21 A. No. Only dialogue. 22 Q. And your contract with Ascension 23 called for providing how many gloves? 24 A. Two -- 150 to 200 million. 25 Q. And the gloves you purchased from</p>

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<p style="text-align: right;">Page 37</p> <p>1 JNS or that you allege you purchased from 2 Mr. Stern, were those used to satisfy that 3 contract in part? 4 A. Yes, in part. 5 Q. And were those gloves, in fact, 6 delivered to Ascension? 7 A. They were delivered to Medline. 8 Q. Who was -- who was processing them 9 and storing them on behalf of Ascension? 10 A. Correct. 11 Q. When you got the gloves from the 12 different vendors in this case, did you track 13 which gloves came from which entity? 14 MR. RAKHUNOV: Objection. 15 THE WITNESS: Medline kept a record 16 of who delivered what. And when we paid 17 somebody, we had the payment of the 18 shipment and then the truck arriving within 19 days of that payment. 20 BY MR. FRISCH: 21 Q. So do you -- could -- could you tell 22 me which glove and which warehouse was 23 delivered by JNS, for example? 24 A. Yes. If you get that report from 25 Medline, you can have it very accurately.</p>	<p style="text-align: right;">Page 39</p> <p>1 Q. Did Medline do any inspections? 2 MR. RAKHUNOV: Objection. 3 THE WITNESS: I'm not sure what 4 Medline did or didn't do. 5 BY MR. FRISCH: 6 Q. Do you know if Ascension did any 7 inspections? 8 MR. RAKHUNOV: Objection. 9 THE WITNESS: Ascension did, to 10 my -- I believe they did, from what I 11 recall. 12 BY MR. FRISCH: 13 Q. Did anybody open the boxes when they 14 arrived to ensure that the contents of the 15 boxes were what was being claimed? 16 A. I wouldn't know that. I wasn't 17 allowed to be there. I wasn't allowed to look 18 at them. My drivers were not allowed to look 19 at them either. 20 Q. All right. You didn't have any 21 drivers. The drivers were employed by Dimerco; 22 correct? 23 MR. RAKHUNOV: Objection. 24 THE WITNESS: Yeah. The drivers 25 were -- I don't know who they were employed</p>
<p style="text-align: right;">Page 38</p> <p>1 Q. So Medline is the one that would 2 have that information? 3 A. Correct. 4 Q. Do you know if Medline stored all of 5 the MedCare gloves together? 6 A. No, they did not. 7 Q. Did you ever inspect the gloves that 8 you received? 9 MR. RAKHUNOV: Objection. 10 THE WITNESS: I -- I did not inspect 11 them before I purchased them. 12 BY MR. FRISCH: 13 Q. Did you inspect them after you 14 purchased them? 15 A. I inspected them after I was 16 notified that there was a problem with them. 17 Q. So when was that? 18 A. I was notified in July that there 19 was a problem with them. 20 Q. Did you ever request Alex King to 21 have them inspected? 22 A. Tried to. They said he's not 23 allowed to -- his drivers are not allowed to 24 inspect the gloves, open the gloves, touch the 25 gloves or any of the product.</p>	<p style="text-align: right;">Page 40</p> <p>1 by, but yes. 2 BY MR. FRISCH: 3 Q. Dimerco arranged the drivers? 4 A. Dimerco and -- yeah. 5 Q. So you got hundreds of -- you know, 6 millions of gloves; right? Nobody ever opened 7 a single box until there were problems to 8 determine that the gloves that came in those 9 boxes were the gloves that you expected to 10 receive? 11 MR. RAKHUNOV: Objection. 12 THE WITNESS: I believe so. 13 BY MR. FRISCH: 14 Q. Did Medline not have a team to make 15 sure the items being delivered were the correct 16 item? 17 A. You'd have to ask Medline that. 18 Q. Do you know if the boxes -- the 19 exterior boxes indicate the contents of what's 20 inside the boxes? 21 A. I would expect that the exterior of 22 the box would describe what's inside the 23 package of any product. 24 Q. Did anybody check those markings to 25 see if they matched up with what was expected?</p>

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<p style="text-align: right;">Page 41</p> <p>1 MR. RAKHUNOV: Objection.</p> <p>2 THE WITNESS: I don't know what you</p> <p>3 mean by "markings."</p> <p>4 BY MR. FRISCH:</p> <p>5 Q. If the boxes were marked</p> <p>6 "Examination Gloves," if the cartons that</p> <p>7 kept -- my understanding is that these were</p> <p>8 packed as follows. Maybe I'm wrong. Let's</p> <p>9 step back. Okay?</p> <p>10 My understanding is you would get it</p> <p>11 in pallets with cartons -- you know, brown</p> <p>12 cartons that included the individual boxes of</p> <p>13 100 gloves inside them; is that correct?</p> <p>14 A. That's the general idea of how many</p> <p>15 were supposed to be in there, yes.</p> <p>16 Q. Okay. Now, did anybody check those</p> <p>17 cartons to see what was indicated on them when</p> <p>18 you received them?</p> <p>19 MR. RAKHUNOV: Objection.</p> <p>20 THE WITNESS: I don't know what</p> <p>21 Medline did when they received them.</p> <p>22 BY MR. FRISCH:</p> <p>23 Q. Now, how many of the gloves were</p> <p>24 marked as protection gloves?</p> <p>25 MR. RAKHUNOV: Objection.</p>	<p style="text-align: right;">Page 43</p> <p>1 A. My lawyer should have that exact</p> <p>2 amount. I looked at the documents, but I don't</p> <p>3 have a photographic memory.</p> <p>4 Q. So as far as you know, it could have</p> <p>5 been zero?</p> <p>6 MR. RAKHUNOV: Objection.</p> <p>7 THE WITNESS: No. Medline had told</p> <p>8 us it was close to half. They had given us</p> <p>9 some sort of a report.</p> <p>10 BY MR. FRISCH:</p> <p>11 Q. Do you know if Medline opened every</p> <p>12 single carton to do that report?</p> <p>13 A. I'm not sure what Medline did.</p> <p>14 Q. Were they paid to -- were they --</p> <p>15 were they paid to do this work?</p> <p>16 A. I did not pay Medline to do this.</p> <p>17 Q. Do you know the names of the</p> <p>18 employees at Medline who did the counting?</p> <p>19 A. No.</p> <p>20 Q. Do you know how long the count took?</p> <p>21 A. No.</p> <p>22 Q. Do you know if they took the pallets</p> <p>23 down off the racks and actually -- and actually</p> <p>24 opened the pallets and ensured --</p> <p>25 A. No.</p>
<p style="text-align: right;">Page 42</p> <p>1 THE WITNESS: I'm not sure of the</p> <p>2 exact amount. If I were to guess, I would</p> <p>3 say half.</p> <p>4 BY MR. FRISCH:</p> <p>5 Q. How do you know that?</p> <p>6 A. I went and visited warehouses with</p> <p>7 Bradley Gilling, I think seven of them, and</p> <p>8 from Medline walking us, showing us around,</p> <p>9 about half of them were protection.</p> <p>10 Q. And how do you know that they were</p> <p>11 protection?</p> <p>12 A. Has "protection" on the carton</p> <p>13 outside or on the box itself. The pallets</p> <p>14 (indiscernible) --</p> <p>15 (Stenographer requests</p> <p>16 clarification.)</p> <p>17 THE WITNESS: The box itself, it</p> <p>18 would say "Protection" or "Examination" or</p> <p>19 some type of variation from examination so</p> <p>20 you know there was a difference, or on the</p> <p>21 carton itself.</p> <p>22 BY MR. FRISCH:</p> <p>23 Q. And how many of those gloves that</p> <p>24 said "Protection," according to you, came from</p> <p>25 JNS or Mr. Stern?</p>	<p style="text-align: right;">Page 44</p> <p>1 Q. -- that their count was accurate?</p> <p>2 A. I don't know what Medline did.</p> <p>3 Q. Okay. So you just know Medline told</p> <p>4 you that it was close to 50 percent protection</p> <p>5 gloves?</p> <p>6 A. Correct.</p> <p>7 Q. And that count was done at the</p> <p>8 request of Ascension?</p> <p>9 A. I believe it was Ascension, and</p> <p>10 maybe us too at the same time.</p> <p>11 Q. And were the other 50 percent of</p> <p>12 gloves used by Ascension that were not</p> <p>13 protection gloves?</p> <p>14 A. No, they were not.</p> <p>15 Q. Why not?</p> <p>16 A. Because none of the gloves had any</p> <p>17 nitrile on them, or only small traces of</p> <p>18 nitrile. So they were not the specification of</p> <p>19 glove that they asked for.</p> <p>20 Q. Meaning -- are you aware of whether</p> <p>21 or not the gloves were sourced from MedCare?</p> <p>22 MR. RAKHUNOV: Objection.</p> <p>23 THE WITNESS: I believe they were</p> <p>24 sourced from MedCare. That's what I was</p> <p>25 told.</p>

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<p style="text-align: right;">Page 45</p> <p>1 BY MR. FRISCH:</p> <p>2 Q. So you're not alleging that my</p> <p>3 clients or the Adorama parties sourced fake</p> <p>4 gloves that were not purchased from MedCare; is</p> <p>5 that correct?</p> <p>6 A. I'm not understanding the question.</p> <p>7 Q. My question is, is your allegation</p> <p>8 that the gloves were not really MedCare, or are</p> <p>9 the gloves MedCare and that MedCare shipped</p> <p>10 gloves that were not up to spec?</p> <p>11 MR. RAKHUNOV: Objection.</p> <p>12 THE WITNESS: I don't know what</p> <p>13 MedCare sent to Adorama, Kitchen Winners,</p> <p>14 JNS, and Joel Stern. I know that they told</p> <p>15 me that they were dealing directly with</p> <p>16 MedCare. And if it's true or not true and</p> <p>17 where they got them from, I can't -- I'm</p> <p>18 not sure about that.</p> <p>19 BY MR. FRISCH:</p> <p>20 Q. But you have no reason to believe,</p> <p>21 sitting here today, that they were not dealing</p> <p>22 directly with MedCare?</p> <p>23 A. No, I do not.</p> <p>24 Q. Did you have conversations with</p> <p>25 MedCare?</p>	<p style="text-align: right;">Page 47</p> <p>1 A. Could request it from Adorama's</p> <p>2 attorney. Could request it from Adorama. That</p> <p>3 should give you an exact count of what they</p> <p>4 purchased.</p> <p>5 Q. When you entered into the purchase</p> <p>6 arrangement with JNS, did you have an attorney?</p> <p>7 A. I don't believe we used an attorney</p> <p>8 to get into an agreement with them.</p> <p>9 Q. Okay.</p> <p>10 A. I'm not positive, though; so I would</p> <p>11 have to go back to Brad Gilling and ask.</p> <p>12 (Exhibit Number JNS B, Escrow</p> <p>13 Agreement, Bates-stamped RF_000660 - 667,</p> <p>14 was marked for identification.)</p> <p>15 BY MR. FRISCH:</p> <p>16 Q. Do you recall the agreement I've</p> <p>17 called up and labeled as JNS Exhibit B?</p> <p>18 A. I can't really see it. So you're</p> <p>19 going to have to try to play with the zoom</p> <p>20 here.</p> <p>21 Q. You can zoom in.</p> <p>22 A. Yeah, I'm trying. 150 -- okay.</p> <p>23 Escrow agreement.</p> <p>24 Okay. What about this agreement you</p> <p>25 were asking?</p>
<p style="text-align: right;">Page 46</p> <p>1 A. I had conversations with MedCare</p> <p>2 after we had the problems with the gloves.</p> <p>3 Q. And when you had those conversations</p> <p>4 with MedCare, what did they tell you?</p> <p>5 A. They said -- she had sent us testing</p> <p>6 reports of everything that Adorama had bought</p> <p>7 from them directly. So it was JNS in lieu of</p> <p>8 MedCare. She said half of the products that</p> <p>9 she sold to Adorama were protection gloves.</p> <p>10 Q. Do you know how many gloves she sold</p> <p>11 to Adorama?</p> <p>12 A. No, I don't.</p> <p>13 Q. So you don't know how many gloves</p> <p>14 would be half protection gloves, do you?</p> <p>15 A. I do not.</p> <p>16 Q. So there's no -- you have no basis</p> <p>17 to conclude that Adorama did not have</p> <p>18 sufficient examination gloves to fulfill your</p> <p>19 contract with them; correct?</p> <p>20 MR. RAKHUNOV: Objection.</p> <p>21 THE WITNESS: I do not have exact</p> <p>22 numbers of what Adorama purchased from</p> <p>23 MedCare, but I'm sure we can request it.</p> <p>24 BY MR. FRISCH:</p> <p>25 Q. From whom could you request it?</p>	<p style="text-align: right;">Page 48</p> <p>1 Q. Can you please scroll first to</p> <p>2 page 7.</p> <p>3 A. 7. Okay.</p> <p>4 Q. Is that your signature over your</p> <p>5 name?</p> <p>6 A. Yes.</p> <p>7 Q. So did you, in fact, sign this</p> <p>8 agreement?</p> <p>9 A. Appears that I did.</p> <p>10 Q. Was Gunster Yoakley & Stewart</p> <p>11 representing you in regard to this?</p> <p>12 MR. RAKHUNOV: Objection.</p> <p>13 THE WITNESS: Very possible.</p> <p>14 BY MR. FRISCH:</p> <p>15 Q. Do you know if Gunster Yoakley &</p> <p>16 Stewart ever executed this agreement?</p> <p>17 A. I'm not positive.</p> <p>18 Q. Did you ever fund the escrow account</p> <p>19 contemplated under this agreement?</p> <p>20 A. What escrow account? I'm not</p> <p>21 positive on that. I would have to ask Brad</p> <p>22 Gilling.</p> <p>23 Q. So you don't recall, looking at this</p> <p>24 agreement, whether or not this agreement was</p> <p>25 ever acted upon?</p>

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<p style="text-align: right;">Page 49</p> <p>1 A. I looked at a lot of agreements, and</p> <p>2 I don't have a photographic memory from two</p> <p>3 years ago of what I signed and didn't sign and</p> <p>4 what I funded and didn't fund or deposit.</p> <p>5 Q. But you have no reason, sitting here</p> <p>6 today, to think that you didn't sign this</p> <p>7 agreement?</p> <p>8 MR. RAKHUNOV: Objection.</p> <p>9 THE WITNESS: I don't think so, but</p> <p>10 I -- I would have to ask my lawyer to look.</p> <p>11 If he has the document and I signed it,</p> <p>12 then I signed it.</p> <p>13 BY MR. FRISCH:</p> <p>14 Q. Do you recall if you issued purchase</p> <p>15 orders to Mr. Stern or JNS at that time when</p> <p>16 you entered into an agreement?</p> <p>17 MR. RAKHUNOV: Objection.</p> <p>18 THE WITNESS: I'd have to refer to</p> <p>19 Brad Gilling.</p> <p>20 MR. FRISCH: Okay. Does this -- I</p> <p>21 am going to now label this as JNS</p> <p>22 Exhibit C.</p> <p>23 (Exhibit Number JNS C, Irrevocable</p> <p>24 Corporate Purchase Order from Rock Fintek</p> <p>25 to JNS Capital, dated 2/2/21, was marked</p>	<p style="text-align: right;">Page 51</p> <p>1 A. No.</p> <p>2 Q. Do you recall issuing any document</p> <p>3 to Mr. Stern or JNS ordering any product?</p> <p>4 A. All the documents that I got that I</p> <p>5 had, I got them from Brad Gilling, sent them to</p> <p>6 our attorney, and he should have copies of</p> <p>7 them -- records of them and can send them to</p> <p>8 you.</p> <p>9 Q. Okay. So sitting here today, do you</p> <p>10 believe this is not an accurate document, or</p> <p>11 you think --</p> <p>12 A. It's not my signature. That's for</p> <p>13 sure.</p> <p>14 Q. Do you recall if there ever was a</p> <p>15 document between you and JNS indicating the</p> <p>16 quality of the gloves that you were purchasing?</p> <p>17 A. Phillip should have that if it</p> <p>18 exists. I don't -- again, I looked at a lot of</p> <p>19 documents with Phillip yesterday. I don't</p> <p>20 recall all of them.</p> <p>21 Q. Okay. Don't tell me what you</p> <p>22 discussed with Phillip.</p> <p>23 MR. RAKHUNOV: Yeah, let's not go</p> <p>24 there.</p> <p>25 ///</p>
<p style="text-align: right;">Page 50</p> <p>1 for identification.)</p> <p>2 THE WITNESS: The signature didn't</p> <p>3 look 100 percent like mine on that</p> <p>4 document, also.</p> <p>5 BY MR. FRISCH:</p> <p>6 Q. But do you recall this document?</p> <p>7 A. This document or the previous</p> <p>8 document? No. This one, let me try to -- I've</p> <p>9 got to zoom in on it. Give me a moment. Okay.</p> <p>10 (Reviewing document.)</p> <p>11 What about this document?</p> <p>12 Q. Do you recall signing this document?</p> <p>13 A. No, I do.</p> <p>14 Q. Is that your signature at the</p> <p>15 bottom?</p> <p>16 A. Does not appear to be.</p> <p>17 Q. Is it possible that somebody else</p> <p>18 who had authority signed your name on it?</p> <p>19 A. No.</p> <p>20 Q. Like Mr. Gilling?</p> <p>21 A. No. He would have signed his own</p> <p>22 name.</p> <p>23 Q. Do you recall issuing this type of</p> <p>24 document, irrevocable corporate purchase order,</p> <p>25 under the Rock Fintek letterhead?</p>	<p style="text-align: right;">Page 52</p> <p>1 BY MR. FRISCH:</p> <p>2 Q. But do you recall any document</p> <p>3 that -- with --</p> <p>4 MR. FRISCH: Can you guys give me 30</p> <p>5 seconds? Apparently my cleaning ladies are</p> <p>6 here.</p> <p>7 MR. RAKHUNOV: You know, let's take</p> <p>8 just a quick two-minute break.</p> <p>9 MR. FRISCH: Let's take a two-minute</p> <p>10 break.</p> <p>11 (Break taken from 11:03 a.m. to</p> <p>12 11:09 a.m.)</p> <p>13 BY MR. FRISCH:</p> <p>14 Q. How many agreements did you enter</p> <p>15 into with Ascension?</p> <p>16 A. How many agreements did I enter into</p> <p>17 with Ascension? I had multiple agreements with</p> <p>18 Ascension. Well, with Resource Group.</p> <p>19 Q. And how many -- and what did those</p> <p>20 agreements cover?</p> <p>21 A. Different products. Nitrile gloves,</p> <p>22 masks, gowns.</p> <p>23 Q. And how many of those -- how many</p> <p>24 gloves -- when was the first time you entered</p> <p>25 into a contract with Ascension for</p>

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<p style="text-align: right;">Page 53</p> <p>1 (indiscernible) --</p> <p>2 CERTIFIED STENOGRAPHER: I'm sorry?</p> <p>3 MR. RAKHUNOV: Yeah, we lost you,</p> <p>4 Avi.</p> <p>5 (Comments off the record.)</p> <p>6 BY MR. FRISCH:</p> <p>7 Q. All right. How many -- I'm sorry.</p> <p>8 I lost my train of thought.</p> <p>9 How many contracts for nitrile</p> <p>10 gloves did you have with Ascension?</p> <p>11 A. How many contracts?</p> <p>12 Q. Uh-huh.</p> <p>13 A. I believe I had two.</p> <p>14 Q. When was the first one?</p> <p>15 A. Around September 2020 or 2021.</p> <p>16 Q. And what gloves did you supply for</p> <p>17 that contract?</p> <p>18 A. I don't remember the exact brand.</p> <p>19 Q. Was it MedCare?</p> <p>20 A. No.</p> <p>21 Q. And then the contract that led to</p> <p>22 the purchases at issue in this case, when was</p> <p>23 that executed?</p> <p>24 A. I believe that was executed in</p> <p>25 December, same year.</p>	<p style="text-align: right;">Page 55</p> <p>1 working on some stuff for us with them, but I</p> <p>2 don't think if we ever used any of those</p> <p>3 documents to fund an escrow or to do anything.</p> <p>4 (Stenographer requests</p> <p>5 clarification.)</p> <p>6 THE WITNESS: To fund an escrow or</p> <p>7 use the documents that he had produced. I</p> <p>8 don't believe we ended up using any of</p> <p>9 them. We just ended up paying him</p> <p>10 directly.</p> <p>11 BY MR. FRISCH:</p> <p>12 Q. Did you get any financial statements</p> <p>13 from him?</p> <p>14 A. I don't believe I did.</p> <p>15 Q. Did you ask for them?</p> <p>16 A. I believe I asked about his company</p> <p>17 and the strength of it, and that was about it.</p> <p>18 Q. And what were you told?</p> <p>19 A. He was an accountant and he was</p> <p>20 working with some real estate guys that are</p> <p>21 colleagues of his and they were able to secure</p> <p>22 the gloves.</p> <p>23 Q. And that was sufficient for you to</p> <p>24 do business with him?</p> <p>25 A. Yeah. Yes, it was at the time.</p>
<p style="text-align: right;">Page 54</p> <p>1 Q. And at that time were you planning</p> <p>2 on supplying MedCare gloves, or was it any</p> <p>3 nitrile examination gloves you could get your</p> <p>4 hands on?</p> <p>5 A. No. Nitrile gloves only.</p> <p>6 Q. But was it MedCare, or was it any</p> <p>7 brand?</p> <p>8 A. It was any brand.</p> <p>9 Q. Is that when you entered into a</p> <p>10 transaction with somebody in Thailand or</p> <p>11 something where they stole your money and did</p> <p>12 not provide gloves?</p> <p>13 A. That was one instance we tried to</p> <p>14 procure some gloves, but we had also procured</p> <p>15 other ones.</p> <p>16 Q. And you said it was January 2020</p> <p>17 when you met -- when you were introduced to</p> <p>18 JNS?</p> <p>19 A. I don't remember exactly when. It</p> <p>20 was toward the end of that year or the</p> <p>21 beginning of 2020 -- 2021.</p> <p>22 Q. Did you request any financial</p> <p>23 information from Mr. Stern or JNS when you</p> <p>24 entered into the transaction with them?</p> <p>25 A. My lawyer, Scott Coffey, had started</p>	<p style="text-align: right;">Page 56</p> <p>1 Seemed like an honest man.</p> <p>2 Q. I agree.</p> <p>3 How many gloves did you ultimately</p> <p>4 purchase from JNS or Mr. Stern, as you allege?</p> <p>5 A. I don't remember exactly. I'd have</p> <p>6 to look at the document again.</p> <p>7 Q. Do you recall how much you paid him?</p> <p>8 A. I do not know off the top of my</p> <p>9 mind.</p> <p>10 Q. Do you know offhand how many gloves</p> <p>11 you purchased from Adorama or Kitchen Winners?</p> <p>12 A. I purchased over the 200 million</p> <p>13 quantity I had a contract for.</p> <p>14 Q. How much did you pay JNS for the</p> <p>15 gloves?</p> <p>16 A. I'd have to look at the contract,</p> <p>17 and I can verify it.</p> <p>18 Q. And what price did you resell them</p> <p>19 to Ascension at?</p> <p>20 A. I'd have to look at their contract</p> <p>21 and then confirm it with you, what the exact</p> <p>22 amount is.</p> <p>23 Q. Is it fair to say that you resold</p> <p>24 them at a profit?</p> <p>25 A. I sold gloves at a loss in the</p>

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<p>Page 57</p> <p>1 beginning that I purchased from him and 2 Adorama. 3 Q. You sold the gloves for less than 4 you purchased them at? 5 A. Correct. 6 Q. But that isn't because of JNS; is 7 that correct? 8 A. Has nothing to do with JNS. It's 9 just what I was willing to pay, and I was 10 willing to take a loss. 11 Q. Ultimately, how much did you collect 12 from Ascension for the nitrile gloves that you 13 sold them? 14 A. Approximately 34, 35 million. 15 Q. And how much -- these are the gloves 16 pursuant to the December 2020 or November 2020 17 contract? 18 A. Pursuant to -- 19 Q. Or does that include the September 20 deliveries as well? 21 A. No, it's for that contract, I 22 believe. 23 Q. In total, how much did you pay to 24 JNS and Kitchen Winners and Adorama for the 25 gloves that you sold under that contract?</p>	<p>Page 59</p> <p>1 A. I'd have to see a document to verify 2 it. 3 Q. Was you it around two and a half 4 million? 5 A. I don't have the number in my mind. 6 I'd need to look at something. 7 Q. When did complaints begin about the 8 gloves? 9 MR. RAKHUNOV: Objection. 10 THE WITNESS: I believe the first 11 written notification we got was sometime in 12 July. 13 BY MR. FRISCH: 14 Q. Did you have any oral notifications 15 prior to July? 16 A. I don't recollect that, no. First 17 time I believe hearing something was that. The 18 only thing that happened before would have been 19 the LevMed situation, the wrong brand gloves 20 given. 21 Q. I'm sure Alex will discuss LevMed 22 with you. I don't think that has anything to 23 do with JNS; correct? 24 A. Correct. 25 Q. All right. So sitting here today,</p>
<p>Page 58</p> <p>1 A. Between them and logistics costs, I 2 believe I paid more than I received. 3 Q. I didn't ask you about logistics 4 costs. Just how much did you pay them? 5 A. I don't have that number memorized. 6 Q. Do you have an idea? 7 A. No. I could verify it. 8 Q. How do you know that it was with 9 the -- well, how much did you pay the logistics 10 company? 11 A. I believe logistics, it was around 7 12 million, 6 million, 5 million. 5 to 7 million. 13 Maybe 8. So minus the difference of that, 14 minor operational cost. 15 Q. Okay. And did you -- you don't 16 recall how much you paid for the gloves to the 17 sellers of the gloves? 18 A. I believe I paid Adorama 19 and a 19 half million. 20 Q. Okay. 21 A. And I'm not exactly sure the amount 22 that I paid JNS. Just Adorama and 23 Kitchen Winners was around 19, 20 million. I'm 24 not sure for JNS. 25 Q. It was under \$7 million; correct?</p>	<p>Page 60</p> <p>1 what damages were caused by JNS? 2 A. The loss of my relationship and 3 goodwill that I built up with Ascension. 4 Q. Well, what -- what did you -- what 5 further business were you expecting from 6 Ascension? 7 A. I had an opportunity to bid on a 8 billion glove order with them and an 9 opportunity to sell them additional masks. I 10 had a large opportunity to sell them testing 11 kits that would have been FDA-approved and we 12 would have manufactured and sold to them. 13 Q. Now, those testing kits were 14 never -- you testified earlier, those testing 15 kits were never produced; correct? 16 A. We started to make them. We made 17 prototypes. 18 Q. You never got them FDA-approved; 19 correct? 20 A. We stopped the process that I spent 21 the legal funds on starting. 22 Q. Okay. But it never -- it never 23 actually happened? 24 MR. RAKHUNOV: Objection. 25 THE WITNESS: No, it did not happen.</p>

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<p style="text-align: right;">Page 61</p> <p>1 BY MR. FRISCH:</p> <p>2 Q. When they -- when you say you had an</p> <p>3 opportunity to bid, who gave you that</p> <p>4 opportunity?</p> <p>5 A. Resource Group said, "We'll give you</p> <p>6 an opportunity to bid."</p> <p>7 Q. Who specifically at Resource Group?</p> <p>8 A. Dewayne Rader.</p> <p>9 Q. And who is Dewayne Rader? What is</p> <p>10 his position there?</p> <p>11 A. He's the vice president at Resource</p> <p>12 Group. I'm not sure of the exact title.</p> <p>13 Q. And the billion gloves was over what</p> <p>14 period of time?</p> <p>15 A. Would have been annually. Would</p> <p>16 have been a two- or three-year contract.</p> <p>17 Q. And your profit on that contract</p> <p>18 would have been what?</p> <p>19 A. I don't have the exact numbers</p> <p>20 because we would have been buying the gloves</p> <p>21 post-pandemic. So it would have been -- the</p> <p>22 margins would have been smaller, but it would</p> <p>23 have been significant because of the quantity.</p> <p>24 Q. Were you the only bidder?</p> <p>25 A. No, I was not the only bidder. I</p>	<p style="text-align: right;">Page 63</p> <p>1 have to ask them.</p> <p>2 Q. Okay. So you don't really know,</p> <p>3 sitting here today, how likely you were or</p> <p>4 weren't to actually get the contract?</p> <p>5 A. I believe I would have got it. I</p> <p>6 was already established with them. Already did</p> <p>7 60, \$70 million in sales with them. So I was</p> <p>8 pretty optimistic about it.</p> <p>9 Q. And in terms of the test kit</p> <p>10 business, how far along was that contract?</p> <p>11 A. They said, "If you have a test kit</p> <p>12 that you're going to have it FDA-approved" --</p> <p>13 which I could have used my own which I was</p> <p>14 making, or I could have bought an existing one</p> <p>15 and sold it to them that was already</p> <p>16 approved -- they would be happy to buy it.</p> <p>17 But when the gloves issue arose,</p> <p>18 they didn't want to do any business at all with</p> <p>19 us.</p> <p>20 Q. So what -- can you</p> <p>21 (indiscernible) on the lost business that</p> <p>22 you're claiming --</p> <p>23 (Stenographer requests</p> <p>24 clarification.)</p> <p>25 ///</p>
<p style="text-align: right;">Page 62</p> <p>1 would not have been the only bidder. I can't</p> <p>2 imagine that.</p> <p>3 Q. Ultimately, do you know who was</p> <p>4 awarded that contract?</p> <p>5 A. No, I don't.</p> <p>6 Q. Did you ever submit a bid for that</p> <p>7 contract?</p> <p>8 A. No. I did not have the opportunity.</p> <p>9 Q. Well, did you ever prepare the bid</p> <p>10 for that contract?</p> <p>11 A. We had discussions about it and had</p> <p>12 a face-to-face meeting about it.</p> <p>13 Q. Do you know how many other bidders</p> <p>14 there were?</p> <p>15 A. I do not.</p> <p>16 Q. So you have no idea how likely you</p> <p>17 were or weren't to get that contract; correct?</p> <p>18 A. I was told that we delivered</p> <p>19 everything on time, and they would want to</p> <p>20 continue a relationship with us.</p> <p>21 Q. Do you know the criteria they were</p> <p>22 using to review bids at that time?</p> <p>23 A. I -- what criteria they were using?</p> <p>24 They were going with proven vendors, I believe,</p> <p>25 but I'm not sure what their criteria is. You'd</p>	<p style="text-align: right;">Page 64</p> <p>1 BY MR. FRISCH:</p> <p>2 Q. Can you put a number on the amount</p> <p>3 of lost business you believe you had?</p> <p>4 A. I was selling -- if you go by the</p> <p>5 past, I did about 70 million a year with them.</p> <p>6 So if you take that for the next few years, I</p> <p>7 don't know, 200 -- \$200 million.</p> <p>8 Q. That's revenue. What about your --</p> <p>9 what would your profits have been?</p> <p>10 A. Out of 200 million? I don't know.</p> <p>11 You'd say at least 15, 20 percent.</p> <p>12 Q. But you told me that you lost money</p> <p>13 on the \$35 million that you had sold the gloves</p> <p>14 to Ascension at.</p> <p>15 That was your testimony a few</p> <p>16 minutes ago; correct?</p> <p>17 MR. RAKHUNOV: Objection.</p> <p>18 THE WITNESS: We were buying the</p> <p>19 gloves for more than we were selling them</p> <p>20 for in the beginning.</p> <p>21 BY MR. FRISCH:</p> <p>22 Q. So you told me you lost money on the</p> <p>23 \$35 million you were paid through Ascension.</p> <p>24 Is that a correct understanding of your prior</p> <p>25 testimony?</p>

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<p style="text-align: right;">Page 65</p> <p>1 MR. RAKHUNOV: Objection. 2 THE WITNESS: I believe so. 3 BY MR. FRISCH: 4 Q. Okay. So what makes you think that 5 the future contracts would have been 6 profitable? 7 A. Because the other \$40 million I did 8 with them was profitable. 9 Q. Now, how much of the loss -- of this 10 lost -- supposedly lost business is 11 apportionable to JNS? 12 MR. RAKHUNOV: Objection. 13 THE WITNESS: I don't know that 14 exact amount. I'd have to look at the 15 documents I gave Phillip. 16 BY MR. FRISCH: 17 Q. Approximately what -- I mean, JNS 18 sold you a much smaller share of gloves than 19 Adorama; correct? 20 A. Yes. 21 Q. So are you going to say the damages 22 from JNS are only, let's say, 10 percent of the 23 damages that Adorama caused, or how do you 24 calculate that? 25 MR. RAKHUNOV: Objection.</p>	<p style="text-align: right;">Page 67</p> <p>1 if you want to go on the off the record we 2 can go to a breakout room. 3 MR. RAKHUNOV: Yeah, let's just go 4 off the record. I'm not going to go 5 anywhere. 6 (Break taken from 11:24 a.m. to 7 11:25 p.m.) 8 THE WITNESS: Okay. All right. I 9 have power on the computer. 10 MR. FRISCH: All right. 11 MR. RAKHUNOV: So let me -- let me 12 just put my objection on the record. 13 You know, this is the deposition -- 14 it's a fact witness deposition of Mr. Kato 15 individually and as the corporate 16 representative. We haven't had expert 17 disclosures yet, and we're not into expert 18 discovery. If Mr. Kato is, in fact, 19 disclosed as an expert in the value of the 20 losses for Rock Fintek, he will be made 21 available for an expert deposition at that 22 time. 23 So feel free to ask him questions. 24 I just want to be clear that, you know, 25 this is not going -- he's not being</p>
<p style="text-align: right;">Page 66</p> <p>1 THE WITNESS: I believe whatever the 2 quantity is, you can see it, and then 3 that's -- however you want to calculate 4 loss. I don't know. I'd have to ask an 5 accountant. 6 BY MR. FRISCH: 7 Q. Meaning -- I've been told by your 8 attorney that you are going to testify as an 9 expert in this case as to your lost profits. 10 So I think it is reasonable to ask you how you 11 tie particular profits to a particular 12 defendant here, and I'm asking if you have that 13 calculation. 14 A. I -- 15 MR. RAKHUNOV: Hold on. Hold on. 16 Just on the record -- 17 THE WITNESS: Hold on. I've got to 18 get power for my computer. So -- 19 MR. FRISCH: Okay. We can take a 20 two-minute break. 21 THE WITNESS: You can just leave it 22 on. I've just got to get the power. 23 MR. RAKHUNOV: Are we still on the 24 record? 25 MR. FRISCH: Looks like we are, but</p>	<p style="text-align: right;">Page 68</p> <p>1 presented right now as an expert witness. 2 So, you know, this is without prejudice to 3 him providing complete expert testimony in 4 the future if he -- 5 MR. FRISCH: Well -- 6 MR. RAKHUNOV: -- if he does so. 7 MR. FRISCH: Okay. Well, 8 gamesmanship aside, he's here supposably 9 both on behalf of the company, and 10 supposedly he's going to be an expert in 11 what they've lost. And, so far, I'm not 12 hearing any numbers, any basis for any of 13 these claims. 14 So you can put your objection, but I 15 don't -- I don't go in for gamesmanship, as 16 you know. He's supposed to testify. 17 MR. RAKHUNOV: There's no 18 gamesmanship here. There is a different 19 procedure for expert testimony than there 20 is for fact witness. 21 So go ahead and ask your questions, 22 and we'll go from there. 23 MR. FRISCH: Okay. So let's go 24 back. 25 ///</p>

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<p style="text-align: right;">Page 69</p> <p>1 BY MR. FRISCH:</p> <p>2 Q. I think I was trying to break down</p> <p>3 with you how much of the loss you would</p> <p>4 attribute to JNS.</p> <p>5 A. Well, I would say JNS torpedoed the</p> <p>6 relationship.</p> <p>7 Q. How is that?</p> <p>8 A. By putting stickers on the gloves</p> <p>9 saying that they were examination.</p> <p>10 Q. Well, how do you know JNS did that?</p> <p>11 A. He called me and he asked me -- or</p> <p>12 wanted to sell me those exact gloves for half</p> <p>13 the price, 4 or \$5 less a box, or \$6 less a</p> <p>14 box, and I told him absolutely not.</p> <p>15 He's like, "I can repackage them and</p> <p>16 I can do that."</p> <p>17 And he says, "No." So -- and I</p> <p>18 said, "No."</p> <p>19 And then pallets -- when I visited</p> <p>20 the pallets at Medline, those pallets had Joel</p> <p>21 Stern's name written on them.</p> <p>22 And then we took out the boxes.</p> <p>23 There was a sticker of examination just as he</p> <p>24 described on the box that I did not want to</p> <p>25 purchase. So it had Joel Stern, JNS, and David</p>	<p style="text-align: right;">Page 71</p> <p>1 A. You can get the documentation from</p> <p>2 Medline to back it up.</p> <p>3 Q. I'm asking you for how you link it</p> <p>4 up, because you're saying that there's some</p> <p>5 label on the boxes -- let me finish my</p> <p>6 question.</p> <p>7 You just said there was a label on</p> <p>8 the boxes that said "JNS" or "Joel Stern";</p> <p>9 right? Who put that on the -- who put that on</p> <p>10 the panel?</p> <p>11 A. His drivers must have.</p> <p>12 Q. So you don't know who put them on?</p> <p>13 A. I know Medline didn't do it.</p> <p>14 Q. How do you know that?</p> <p>15 A. Because Medline said that's the way</p> <p>16 they received them.</p> <p>17 Q. Well, who at Medline told you that?</p> <p>18 A. Whoever were in the warehouse.</p> <p>19 Q. Okay. So you don't know. You</p> <p>20 personally have no knowledge of who put that</p> <p>21 label on the pallet; correct?</p> <p>22 A. I don't know who Joel Stern hired or</p> <p>23 if he --</p> <p>24 Q. I'm not talking about the stickers.</p> <p>25 I'm talking about the piece of paper that is on</p>
<p style="text-align: right;">Page 70</p> <p>1 Horowitz or somebody on the --</p> <p>2 Q. Do you know who put those labels on?</p> <p>3 A. Joel Stern had somebody put them on.</p> <p>4 It came out exactly the way he described it.</p> <p>5 Q. So you don't know, meaning -- if he</p> <p>6 was asking you to buy them at a lower price,</p> <p>7 why would he just stick them on a truck for</p> <p>8 you?</p> <p>9 MR. RAKHUNOV: Objection.</p> <p>10 THE WITNESS: Because he was -- I</p> <p>11 don't know why he'd want to do something</p> <p>12 criminal, but he did.</p> <p>13 BY MR. FRISCH:</p> <p>14 Q. This, frankly, makes no sense;</p> <p>15 right? He was trying to sell them to you at a</p> <p>16 different price, and now you're saying, "I</p> <p>17 said, 'No.' So he just stuck them on a truck."</p> <p>18 That's your -- that's your allegation. You</p> <p>19 have no evidence of that allegation; correct?</p> <p>20 A. Yes, I do.</p> <p>21 Q. Yeah? What's the evidence?</p> <p>22 A. His truck driver delivered to</p> <p>23 Medline; Medline received those gloves.</p> <p>24 Q. How do you know it was his truck</p> <p>25 driver who delivered those items?</p>	<p style="text-align: right;">Page 72</p> <p>1 some of the pallets saying "Joel Stern," or</p> <p>2 some say "Kitchen Winners."</p> <p>3 A. Medline --</p> <p>4 Q. You don't know who put that on;</p> <p>5 correct?</p> <p>6 A. I know Medline didn't put it on, and</p> <p>7 they arrived like that.</p> <p>8 Q. But you don't know Medline didn't</p> <p>9 put it on. You know Medline told you they</p> <p>10 didn't.</p> <p>11 A. Medline told me they did not; so I</p> <p>12 believe them.</p> <p>13 Q. Okay. Well, if Joel Stern told you</p> <p>14 he did not, would you believe him?</p> <p>15 A. No, I would not.</p> <p>16 Q. Why not?</p> <p>17 A. I don't believe the man.</p> <p>18 Q. Okay.</p> <p>19 A. Anymore.</p> <p>20 Q. Well, so you have no personal</p> <p>21 knowledge of this fact either way; correct?</p> <p>22 MR. RAKHUNOV: Objection.</p> <p>23 BY MR. FRISCH:</p> <p>24 Q. You can answer.</p> <p>25 A. He offered to sell gloves with a</p>

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<p style="text-align: right;">Page 73</p> <p>1 description, which I turned down, and then they 2 arrived just as he described, the way I had 3 turned them down. 4 Q. Except you don't know that he was 5 the one who sent them. 6 A. You do know that he sent them 7 because you know when his trucks arrived. 8 Q. But you don't know which gloves at 9 the warehouse are his. You can't tell me -- 10 you can't look at a spreadsheet today -- 11 A. They were shipped and received and 12 identified in the warehouse. 13 Q. Can you tell me -- I happen to know 14 for a fact that Medline did not track it to the 15 level of detail that you're saying they did, 16 because I know Medline's told us. 17 MR. RAKHUNOV: Objection. Are you 18 testifying? 19 MR. FRISCH: But -- I'm setting up 20 my question. Right? Because he keeps on 21 insisting that there is this information. 22 BY MR. FRISCH: 23 Q. I don't have any information from 24 you guys as to how it would be tracked, which 25 pallet came from which seller. So how would I</p>	<p style="text-align: right;">Page 75</p> <p>1 A. You can just go around and look at 2 all their gloves. You're going to see stickers 3 on most of the pallets. 4 Q. I'm not -- I'm not asking you to -- 5 meaning you're saying that all the gloves from 6 Joel Stern had these stickers? I know that's 7 not true. So I don't think that's what you're 8 saying. Is it? 9 A. The majority of them. The majority 10 of them. Not in the beginning. Until -- 11 Q. How many gloves had the stickers on 12 them? Let's get a straight answer. How many 13 gloves have the stickers on them? 14 A. I don't have the exact count. 15 Q. Who would? 16 A. You should probably have it in our 17 purchase order. Joel would. You can ask Joel. 18 He'll tell you how many he stickered. 19 Q. I -- 20 A. He should know exactly how many he 21 stickered. Maybe he's got -- 22 Q. Trust me, you don't -- he will not 23 give the same answer as you. 24 CERTIFIED STENOGRAPHER: You guys 25 have got to stop talking at the same time,</p>
<p style="text-align: right;">Page 74</p> <p>1 figure it out? Like, show me a -- tell me 2 which document I look at and which piece of 3 information will tell me which gloves are those 4 gloves that you say have these stickers on 5 them -- right? -- and how -- 6 A. They arrived, and they were wrapped 7 with JNS or Joel Stern's name wrapped on them. 8 The trucks arrived when Joel Stern said his 9 trucks would be arriving. 10 If you go back to his messages and 11 when he was paid, it's the same time that 12 the -- those trucks arrived. They were 13 wrapped. There's no question that those 14 Arik Maimon boxes are from JNS, Joel Stern, or 15 David Horowitz, without a question. 16 Q. If I go to the Grayslake 17 warehouse -- I don't even know if the gloves 18 are still there, but if they are still there -- 19 right? --there's like 100 million gloves; 20 right? 21 How would I go and find that 22 pallet -- the question I've been asking from 23 the very beginning of this case: How would I 24 go and find the pallets you are claiming have 25 these stickers? How would I track that?</p>	<p style="text-align: right;">Page 76</p> <p>1 because I can only take one of you at a 2 time. 3 MR. FRISCH: I'm sorry. I'm sorry. 4 THE WITNESS: All right. Well, just 5 ask clear questions. I'm happy to give 6 clear answers. 7 BY MR. FRISCH: 8 Q. The clear question is, to your 9 knowledge, you have been claiming all along 10 that you have gotten boxes with stickers from 11 Joel Stern. How many boxes of gloves arrived 12 from Joel Stern with stickers on them? I want 13 a number. Not 50 percent, not 40 percent. I 14 want a number. I want an exact count of how 15 many boxes had those stickers on them. 16 MR. RAKHUNOV: Objection. 17 MR. FRISCH: He's here on behalf of 18 the company. This is a crucial claim that 19 you've made. 20 THE WITNESS: I don't have a 21 photographic memory to answer that. 22 BY MR. FRISCH: 23 Q. So who would have the answer? Where 24 would I look to get the answer? Was it marked 25 anywhere in your records?</p>

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<p style="text-align: right;">Page 77</p> <p>1 A. You can ask my lawyer if he as the 2 exact documents to get you that exact account. 3 I -- I would assume myself -- if I were to 4 throw a number out there, I would guess 9 5 million. 6 Q. I'm not asking you -- I'm not asking 7 you to guess. 8 A. If you want a number, I mean, that's 9 what -- that's -- 10 Q. No, I want the -- I want the 11 accurate number. 12 A. That's all I have. I have -- 9 13 million is my guess. Guesstimate. 14 Q. What's that guess based on? 15 A. That's about how many I believe he 16 gave me, out of all the ones he sent. That's 17 what Joel said he had. That's the amount that 18 he was trying to sticker, and then he did it. 19 So that's the amount I would guess that was 20 stickered. 9 million. 21 Q. So because Joel tried to sell you 22 something that he -- that you told him you 23 didn't want, that he says he never sold you, 24 now you're assuming that every glove of the -- 25 but you've never gone and counted those</p>	<p style="text-align: right;">Page 79</p> <p>1 Q. How many gloves did they bring down 2 for you in each warehouse? 3 A. Maybe 9 million total. 4 Q. Do you have a recollection of the 5 gloves they brought down? How many warehouses 6 did you visit? 7 A. Seven. 8 Q. Which -- can you name them? 9 A. No, I cannot. Grayslake is one. 10 Jefferson, Romulus. I don't know -- I can't 11 remember the names of the other ones. 12 Q. Okay. How many gloves in total were 13 stored in Grayslake? 14 A. I don't know. 15 Q. How many gloves in total did you 16 visit -- did you inspect personally in 17 Grayslake? 18 A. I inspected millions of gloves 19 between the various warehouses. 20 Q. And how many of those gloves have 21 these stickers on the boxes? 22 A. Every one that was wrapped that said 23 "Joel Stern" or "JNS." 24 Q. Every single box? That's your 25 testimony?</p>
<p style="text-align: right;">Page 78</p> <p>1 gloves -- correct? -- to check how many were 2 stickered? 3 A. I believe I was -- when I was there, 4 I looked at the pallets, and we started 5 counting a lot of the pallets and how many of 6 them were, and I believe it was around 9 7 million. 8 Q. You personally counted 9 million 9 boxes of gloves -- 9 million gloves? 10 A. I believe I did. 11 Q. How long were you in the warehouses 12 for? 13 A. I was in the warehouses for almost a 14 week. 15 Q. And did MedCare -- did Medline take 16 down every single pallet for you? 17 A. The ones they didn't take down, they 18 pulled down at the time, and they said, "These 19 are all the same." 20 And then we saw them with the same 21 sticker; so a lot of them were brought down. 22 Q. How would you see the stickers if 23 they didn't take them down? 24 A. A lot of them, they brought down. 25 So maybe 9 million they brought down.</p>	<p style="text-align: right;">Page 80</p> <p>1 A. Approximately 9 million. 2 Q. But you -- so you had access to 3 these pallets; correct? 4 A. I had access to the pallets when I 5 was at Medline. 6 Q. So you could have printed out the 7 paper that said "JNS" and put it on the pallet; 8 isn't that correct? 9 MR. RAKHUNOV: Objection. 10 THE WITNESS: No, I could not. 11 BY MR. FRISCH: 12 Q. Yes, you could have. You were 13 standing in front of a pallet, and you could 14 have put pieces of paper on them, could you not 15 have? 16 MR. RAKHUNOV: Objection. 17 THE WITNESS: No. They were 18 shrinkwrapped. 19 BY MR. FRISCH: 20 Q. So you could open the shrinkwrap and 21 reshrinkwrap them. 22 A. No. I was -- 23 MR. RAKHUNOV: Okay. Okay. Stop. 24 MR. FRISCH: I'm accusing him of 25 lying to me because --</p>

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<p style="text-align: right;">Page 81</p> <p>1 MR. RAKHUNOV: You're accusing him 2 of -- 3 MR. FRISCH: I'll let him answer -- 4 (Simultaneous speaking.) 5 CERTIFIED STENOGRAPHER: Excuse me. 6 I am not getting this. 7 MR. FRISCH: Okay. This is off -- 8 okay. I am going to continue my 9 questioning, and you're not going 10 to interrupt. 11 MR. RAKHUNOV: You're not asking 12 questions. You're accusing him of -- 13 MR. FRISCH: I am asking him a 14 question. 15 BY MR. FRISCH: 16 Q. Was it not possible for you to take 17 these pieces of paper that said "JNS" on them, 18 print them up on your printer, and stick them 19 on the pallets? 20 A. No, it's not possible. 21 Q. Yes or no? 22 A. Impossible. No. 23 Q. Why is it not possible? 24 A. I didn't have access to a printer to 25 print them and put them on there, and I was</p>	<p style="text-align: right;">Page 83</p> <p>1 Q. Why would he try to sell them to you 2 at a discount when he could just fraudulently 3 put them on the truck and get them at twice the 4 price? 5 A. Because he wanted to split the 6 profits without being -- 7 Q. With who? 8 A. He wanted to split the profit 9 margins: "I'll sell them to you for less now. 10 You'll make more profit. I'll make more 11 profit." 12 I said, "Absolutely not." 13 And then he did it anyways, and he 14 kept 100 percent of the profit of the fake 15 gloves. 16 Q. Okay. So, again, you're claiming 17 there are 9 million fake gloves. I want a 18 listing of every single one of them that you 19 counted, and I want to see -- I want to see how 20 you track those back to Joel Stern's trucks. 21 You keep saying that this 22 information exists. We're now almost a year 23 and a half into this litigation, and nobody has 24 ever seen this level of detail that you're 25 claiming you have today.</p>
<p style="text-align: right;">Page 82</p> <p>1 being watched by Medline. I would -- and I'm 2 not a criminal to do that. As I -- 3 Q. Whether or not you're a criminal is 4 a side question. 5 You are saying that somebody -- that 6 somehow -- the only person here who's ever had 7 access to these pallets is you. 8 MR. RAKHUNOV: Objection. 9 BY MR. FRISCH: 10 Q. So isn't it most likely that you're 11 the one who labeled them? 12 A. No, it's not. 13 MR. RAKHUNOV: Objection. 14 THE WITNESS: You do the math. He 15 tried to sell them to me, and they showed 16 up exact way that he described. 17 BY MR. FRISCH: 18 Q. Why -- okay. So let me ask another 19 question. 20 Why would he try to sell them to you 21 that way -- 22 A. Because he was -- he said he was 23 going to -- 24 Q. I didn't finish my question. 25 A. Okay.</p>	<p style="text-align: right;">Page 84</p> <p>1 So I'm asking you, where is that 2 detail? Like, where is -- 3 (Simultaneous speaking.) 4 BY MR. FRISCH: 5 Q. Is there a file somewhere I can look 6 at? 7 MR. RAKHUNOV: Objection. 8 Objection. 9 Counsel, this is -- I know this is 10 going to be a long day, but just to 11 shortcut some of this, as you know, there's 12 a statistician expert that's going to 13 testify. 14 MR. FRISCH: This isn't a 15 statistician question. That's the point. 16 I'm not asking you for a statistician. 17 MR. RAKHUNOV: 200 million gloves, 18 Avi -- 19 MR. FRISCH: You don't get to 20 interrupt my questions, Phil. I get to ask 21 the questions I want. 22 MR. RAKHUNOV: I get to interrupt 23 this harassment. 24 MR. FRISCH: You don't get to answer 25 --</p>

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<p style="text-align: right;">Page 85</p> <p>1 CERTIFIED STENOGRAPHER: Excuse me. 2 Stop. 3 MR. FRISCH: This is off the record. 4 Phil, you don't get to interrupt my 5 questions -- 6 MR. RAKHUNOV: No, no. Please stay 7 on the record. 8 CERTIFIED STENOGRAPHER: I can't 9 stay on the record if you guys are talking 10 at the same time. I can only hear one 11 person at once. 12 MR. RAKHUNOV: All right. 13 Go ahead, Avi. 14 But please stay on the record. I 15 want this all on the record. 16 MR. FRISCH: There's nothing on the 17 record. You don't have any right to be on 18 the record. You don't have any right to 19 tell me to ask different questions. 20 So, no, you do not get to interrupt 21 my questions to say I should ask different 22 questions or that my theory of the case is 23 not the same as yours. I don't care that 24 there are 200 million gloves. For one 25 thing, my client didn't sell --</p>	<p style="text-align: right;">Page 87</p> <p>1 statement like that. 2 I'm not shortcutting your questions. 3 You're free to ask your questions, but at 4 some point when you start yelling at my 5 client and ranting about your theories of 6 the case on the record, I find that to be 7 unacceptable, and I'm going to object to 8 that and interrupt that. 9 So if you want to go on in a civil 10 way, you can ask whatever questions you 11 need to ask. 12 MR. FRISCH: Okay. Let's go on. 13 BY MR. FRISCH: 14 Q. All right. So when you did this 15 supposed review of the 9 million gloves you 16 claim you saw, is that 9 million in total or 9 17 million sold by Joel Stern and JNS? 18 MR. RAKHUNOV: Objection. 19 THE WITNESS: From JNS. 20 BY MR. FRISCH: 21 Q. And how many gloves from Adorama did 22 you see on that review? 23 A. With stickers on them? 24 Q. How many gloves in total did you see 25 on that review from Adorama?</p>
<p style="text-align: right;">Page 86</p> <p>1 THE WITNESS: I'm going to get 2 another coffee while you guys are arguing. 3 MR. FRISCH: We can go off the 4 record. What time is it? 11:40? What 5 time are we doing lunch? 6 MR. RAKHUNOV: That's really up to 7 the court reporter. I -- I don't think 8 we're ready for lunch yet. 9 MR. FRISCH: No, take two minutes. 10 Go. 11 (Break taken from 11:40 a.m. to 12 11:46 a.m.) 13 MR. FRISCH: For the record, Phil, 14 you don't get to short-circuit my 15 examination. You're free to ask whatever 16 questions you want at the end and make any 17 objections, but you don't get to 18 short-circuit me and say it's taking too 19 long. It's not your place, and I'm not 20 going to accept that. 21 MR. RAKHUNOV: To -- 22 MR. FRISCH: I am going to -- go 23 ahead. 24 MR. RAKHUNOV: No, no, no, I'm going 25 to respond to that, if you're making a</p>	<p style="text-align: right;">Page 88</p> <p>1 A. What do you mean, "in that review"? 2 Q. You said you went to seven 3 warehouses and spent a week. How many gloves 4 did you personally see? 5 A. Tens of millions. 6 Q. Tens of millions. Okay. 7 Did you keep any notes as to what 8 you saw? 9 A. I took videos and photographs, and I 10 gave them to my attorney, who should have given 11 them to you. 12 Q. Did you keep a spreadsheet of 13 every -- of every pallet of what you saw? 14 A. I think we had some notes we wrote 15 down. That's how we came up with the 16 quantities. 17 Q. Who took those notes? 18 A. Bradley and I. 19 Q. Okay. Were those handwritten notes 20 or computerized? 21 A. Handwritten, I believe. 22 Q. I have not seen those. I'm going to 23 call for their production. 24 The -- I'll just take a -- and you 25 said you went to seven warehouses. Do you have</p>

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<p style="text-align: right;">Page 89</p> <p>1 it -- do you have it --</p> <p>2 A. I believe it was seven. Maybe it</p> <p>3 was six.</p> <p>4 Q. Do you have it written down</p> <p>5 somewhere which warehouses you went to?</p> <p>6 A. No, I don't.</p> <p>7 Q. Do you know how many of them had</p> <p>8 labels -- the white paper labels saying who</p> <p>9 delivered them?</p> <p>10 A. Not all of them.</p> <p>11 Q. Do you know approximately how many?</p> <p>12 A. No.</p> <p>13 Q. Was it the majority or the minority</p> <p>14 of them?</p> <p>15 A. I would say majority.</p> <p>16 Q. Now, when you took them down -- when</p> <p>17 they were taken down for you, how did you go</p> <p>18 about getting Medline to bring them down for</p> <p>19 you? Were they done in advance, or was it done</p> <p>20 while you were sitting there?</p> <p>21 A. A lot of them were done in advance,</p> <p>22 and some were done while we were there.</p> <p>23 Q. And was there any rhyme or reason to</p> <p>24 which ones were selected to be brought down?</p> <p>25 A. No. Just randomly picking them.</p>	<p style="text-align: right;">Page 91</p> <p>1 they helped you in this matter with protecting</p> <p>2 them?</p> <p>3 MR. RAKHUNOV: Objection. Anna at</p> <p>4 Medline?</p> <p>5 MR. FRISCH: Anna at MedCare.</p> <p>6 THE WITNESS: The CEO of MedCare?</p> <p>7 BY MR. FRISCH:</p> <p>8 Q. Yes.</p> <p>9 A. I told the CEO of MedCare that</p> <p>10 there's an opportunity, if we correct the</p> <p>11 wrong, to get awarded a billion-glove contract</p> <p>12 for multi years, and she said she can make the</p> <p>13 glove in any way -- any specifications they</p> <p>14 like. And I delivered that message to</p> <p>15 Ascension, and Ascension was happy to hear</p> <p>16 that. However, we were not able to correct the</p> <p>17 wrong.</p> <p>18 Q. Well, what have you done over the</p> <p>19 past several years to supposedly mitigate the</p> <p>20 damages? You said that's what you've been</p> <p>21 doing. What have you done? What steps have</p> <p>22 you taken to mitigate the damages?</p> <p>23 A. One, I filed a lawsuit against the</p> <p>24 criminals that caused these problems. Two, I</p> <p>25 put together all the documentation I could of</p>
<p style="text-align: right;">Page 90</p> <p>1 Q. Did Medline choose to bring them</p> <p>2 down, or did you choose which ones to bring</p> <p>3 down?</p> <p>4 A. Medline pulled out whatever they</p> <p>5 wanted to pull out before we arrived.</p> <p>6 Q. So you don't know who directed</p> <p>7 Medline to pull those particular pallets that</p> <p>8 they pulled?</p> <p>9 A. No.</p> <p>10 Q. Was it somebody at Ascension, by any</p> <p>11 chance?</p> <p>12 A. I would not know who directed</p> <p>13 Medline.</p> <p>14 Q. Did Ascension ever sue Rock Fintek</p> <p>15 for the gloves that supposedly were not up to</p> <p>16 contract?</p> <p>17 A. Not yet.</p> <p>18 Q. What are they waiting for, if you</p> <p>19 know?</p> <p>20 MR. RAKHUNOV: Objection.</p> <p>21 THE WITNESS: I'm not sure.</p> <p>22 BY MR. FRISCH:</p> <p>23 Q. Didn't you also promise to Anna at</p> <p>24 Medline that they could make a huge profit on</p> <p>25 the sale of 1 billion gloves to Ascension if</p>	<p style="text-align: right;">Page 92</p> <p>1 it and then went over it with my attorney.</p> <p>2 Q. Did you -- did you replace any of</p> <p>3 the gloves?</p> <p>4 A. No, we did not replace the gloves.</p> <p>5 Q. Why not?</p> <p>6 A. There's no additional funds to</p> <p>7 purchase more gloves.</p> <p>8 Q. When did you notify Ascension you</p> <p>9 were not going to be able to replace the</p> <p>10 gloves?</p> <p>11 A. When they asked for us to replace</p> <p>12 the gloves.</p> <p>13 Q. When was that?</p> <p>14 A. I believe July or August of that</p> <p>15 summer after they were delivered.</p> <p>16 Q. When Ascension began complaining</p> <p>17 about the quality of the gloves, did you make</p> <p>18 any -- did you attempt to push back that the</p> <p>19 gloves --</p> <p>20 A. Yes, I did.</p> <p>21 Q. -- were not --</p> <p>22 What did you tell them?</p> <p>23 A. I said, "I have all the</p> <p>24 documentation and all the reports that I was</p> <p>25 given from Adorama, JNS, Joel Stern, and</p>

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<p style="text-align: right;">Page 93</p> <p>1 Kitchen Winners, and here it is. These are 2 real gloves, real nitrile. So you must be 3 mistaken." 4 Q. And what was their response? 5 A. "No. You're mistaken." 6 Q. And how did they prove that to you, 7 if they did? 8 A. They sent videos from their nurses 9 or staff in some of their different hospitals 10 and a list of messages or emails from several 11 different people from different hospitals 12 talking about the poor quality of them and that 13 they can't be nitrile gloves. 14 Q. When -- was JNS or Mr. Stern aware 15 of the existence of Ascension at any point in 16 time prior to this lawsuit? 17 A. Was who? 18 Q. Was Mr. Stern or JNS made aware of 19 the existence of Ascension as your customer 20 prior to this lawsuit? 21 A. They were not made aware by me. 22 They found out themselves by asking their truck 23 driver to see who they delivered to and then 24 asking them who the client -- end client was, 25 is what they told me.</p>	<p style="text-align: right;">Page 95</p> <p>1 BY MR. FRISCH: 2 Q. So you believe? 3 A. So he told me. 4 Q. And did -- was there -- when -- when 5 were you expecting to bid on the new contract? 6 A. We would have bid on the new 7 contract probably that same year, whenever it 8 came up. It was coming up that year or the 9 following year. I think it was coming up that 10 year. But more than that, it was also those 11 testing kits and the referral business. 12 They had referred us business to 13 Australia, which was sister group of Resource 14 Group, which I'm not claiming any lost revenue 15 from, but it did cost lost revenue and a lost 16 relationship in Australia. 17 Q. I'm just trying to understand this; 18 right? 19 So you're saying that there was 20 lost -- that you had all these other 21 opportunities. Why didn't you continue to 22 pursue them? 23 A. Didn't have the funds anymore. They 24 put us out of business. 25 Q. Now, the testing kit business, was</p>
<p style="text-align: right;">Page 94</p> <p>1 Q. Who told you that? 2 A. Joel Stern and Hershey Weiner -- 3 Weiner. 4 Q. So it's your testimony that they 5 told you they were aware of Ascension? 6 A. They were aware of Ascension, and 7 they could try to sell to them directly and 8 without me, better we keep working together. 9 Q. Did Mr. Stern have any basis to know 10 your potential for future business with 11 Ascension? 12 A. He knew that there was an 13 opportunity for long-term contracts and selling 14 them other products. 15 Q. How did he know that? 16 A. I had told him. 17 Q. You told him it was with Ascension? 18 A. I told him it's one of the largest 19 hospital systems in the United States. 20 Q. So he's supposed to know it's with 21 Ascension? 22 MR. RAKHUNOV: Objection. 23 THE WITNESS: He went ahead and 24 found out it was Ascension on his own. 25 ///</p>	<p style="text-align: right;">Page 96</p> <p>1 that a bid also, or was that a contract that 2 had already been signed? 3 A. That would have been a contract to 4 sign. It was not a bid. It would have been 5 just like ordering masks or gloves, not an RFP. 6 Q. Okay. So did they sign that 7 contract with you? 8 A. No, they did not. 9 Q. How do you know they would have? 10 A. They had told me that we had built 11 up solid goodwill and delivered when a lot of 12 people couldn't deliver to them. 13 Q. Okay. 14 A. They said 2,000 people they 15 interviewed, 30 they bought products from, and 16 we were in the top three that delivered quality 17 product on time, until we purchased from JNS, 18 Joel Stern, Kitchen Winners, and Adorama. 19 Q. Okay. Have you filed a lawsuit in 20 Florida against the law firm that represented 21 you? 22 MR. RAKHUNOV: Objection. 23 THE WITNESS: Nope. 24 MR. RAKHUNOV: I think there might 25 have been some confusion on the time.</p>

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<p style="text-align: right;">Page 97</p> <p>1 You're not talking about --</p> <p>2 THE WITNESS: Gunster?</p> <p>3 MR. RAKHUNOV: Yeah. You're not</p> <p>4 talking about the law firm you talked about</p> <p>5 earlier today.</p> <p>6 MR. FRISCH: No.</p> <p>7 MR. RAKHUNOV: This is a new topic.</p> <p>8 THE WITNESS: Oh, no. Then I didn't</p> <p>9 file any lawsuit against Gunster.</p> <p>10 BY MR. FRISCH:</p> <p>11 Q. Did you file a lawsuit against</p> <p>12 anybody else?</p> <p>13 A. I filed a lawsuit against -- I</p> <p>14 believe it's called Hunton Williams or</p> <p>15 Hunton Andrew Kurth now.</p> <p>16 Q. Okay. What's the basis of that</p> <p>17 lawsuit?</p> <p>18 A. Wire fraud. They had me sent</p> <p>19 6.2 million to a company that really had no</p> <p>20 assets, didn't exist.</p> <p>21 Q. Are you claiming in that lawsuit</p> <p>22 that that firm is responsible for your loss of</p> <p>23 business with Ascension?</p> <p>24 MR. RAKHUNOV: Objection.</p> <p>25 THE WITNESS: Am I claiming that I</p>	<p style="text-align: right;">Page 99</p> <p>1 \$6.2 million which I wired to --</p> <p>2 Q. I'm not asking about the</p> <p>3 6.2 million.</p> <p>4 A. Well, that's -- that's -- you're</p> <p>5 asking me how I would apportion it.</p> <p>6 If I were to say something off the</p> <p>7 top of my head, it's \$6.2 million immediately.</p> <p>8 Q. Aside from the \$6.2 million, aren't</p> <p>9 you alleging in that case that they caused the</p> <p>10 loss of business with Ascension?</p> <p>11 A. Yes, they did.</p> <p>12 Q. Okay. So how much of the loss of</p> <p>13 business with Ascension should be blamed on</p> <p>14 them?</p> <p>15 A. As of now, 6.2 million of the money</p> <p>16 I sent. And the deterioration of the</p> <p>17 relationship, I don't know. You have to ask</p> <p>18 the lawyer, maybe win the case.</p> <p>19 Q. Meaning -- now that COVID's ended,</p> <p>20 why would Ascension continue to do business</p> <p>21 with an intermediary like Rock Fintek? Like,</p> <p>22 what did you bring to the table that they</p> <p>23 couldn't -- couldn't they just buy from Medline</p> <p>24 directly?</p> <p>25 MR. RAKHUNOV: Objection.</p>
<p style="text-align: right;">Page 98</p> <p>1 have loss of business? They triggered the</p> <p>2 loss. Then I had to go to the Adorama,</p> <p>3 Joel Stern, JNS, and Kitchen Winners to</p> <p>4 purchase gloves as -- just to try to find</p> <p>5 an immediate solution.</p> <p>6 BY MR. FRISCH:</p> <p>7 Q. So how do you apportion the damages</p> <p>8 between now three groups of parties who</p> <p>9 supposedly caused the loss of your business</p> <p>10 with Ascension?</p> <p>11 MR. RAKHUNOV: Objection.</p> <p>12 THE WITNESS: I'll have to ask my</p> <p>13 lawyer on the Hunton case that question.</p> <p>14 BY MR. FRISCH:</p> <p>15 Q. Okay. You want to report back to</p> <p>16 us?</p> <p>17 MR. RAKHUNOV: Objection.</p> <p>18 THE WITNESS: So no.</p> <p>19 BY MR. FRISCH:</p> <p>20 Q. But sitting here today, you don't</p> <p>21 actually know how you would apportion the</p> <p>22 various causes that you ascribe your loss --</p> <p>23 the various causes that you claim caused the</p> <p>24 loss of your business with Ascension?</p> <p>25 A. Well, I have 100 percent loss of</p>	<p style="text-align: right;">Page 100</p> <p>1 BY MR. FRISCH:</p> <p>2 Q. Like, what are you --</p> <p>3 A. That's your opinion.</p> <p>4 MR. RAKHUNOV: Objection. Which</p> <p>5 question -- which question do you want him</p> <p>6 to answer?</p> <p>7 MR. FRISCH: All of them.</p> <p>8 MR. RAKHUNOV: Objection.</p> <p>9 THE WITNESS: Resource Group was</p> <p>10 happy to work with us because during a time</p> <p>11 of unknown circumstances, they were able to</p> <p>12 procure quality products on time from us.</p> <p>13 And they said they would like to</p> <p>14 keep a company like that working with them,</p> <p>15 along with its current companies they</p> <p>16 worked with, just in case something like</p> <p>17 this happened again.</p> <p>18 BY MR. FRISCH:</p> <p>19 Q. So your contract would have been</p> <p>20 for --</p> <p>21 A. There's no contract. Purchase</p> <p>22 agreements.</p> <p>23 Q. Your agreements with them would have</p> <p>24 been for something contingent on another sort</p> <p>25 of worldwide pandemic?</p>

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<p style="text-align: right;">Page 101</p> <p>1 A. No. There was the post-pandemic</p> <p>2 testing kits, which they're still using now,</p> <p>3 heavily. The whole world is.</p> <p>4 Q. Do you know if Ascension ever used</p> <p>5 any of the gloves that they -- any of the</p> <p>6 MedCare gloves they purchased from you?</p> <p>7 A. I believe they might have used 10,</p> <p>8 20 million of them.</p> <p>9 Q. And --</p> <p>10 A. Or at least distributed them.</p> <p>11 Q. And were they ever -- did they ever</p> <p>12 tell you they were happy with those gloves?</p> <p>13 A. When they first got the order, they</p> <p>14 said they were happy with them, and later they</p> <p>15 said they stayed in the warehouse for three</p> <p>16 months before they got out, and that's why they</p> <p>17 told us later that they found out -- they got</p> <p>18 reports from everybody about the quality.</p> <p>19 Q. But the first 10 or 20 million they</p> <p>20 were happy with?</p> <p>21 A. No. That's what they used. You</p> <p>22 said how many did they use. I said I believe</p> <p>23 they distributed 10 to 20 million of them.</p> <p>24 Q. Who -- who sold you the Yanimed</p> <p>25 gloves in April 2021?</p>	<p style="text-align: right;">Page 103</p> <p>1 A. About the quality?</p> <p>2 Q. Uh-huh.</p> <p>3 A. He said they were excellent.</p> <p>4 (Stenographer requests</p> <p>5 clarification.)</p> <p>6 BY MR. FRISCH:</p> <p>7 Q. When did he say that?</p> <p>8 A. Multiple times.</p> <p>9 And it was safe to buy gloves from</p> <p>10 him.</p> <p>11 Q. When did he say that?</p> <p>12 A. Throughout the year that I was</p> <p>13 purchasing.</p> <p>14 Q. Did he -- I'm sorry. I think I'm</p> <p>15 echoing for a second.</p> <p>16 Did he ever represent to you that</p> <p>17 the gloves were 510(k) certified?</p> <p>18 A. Yes.</p> <p>19 Q. When?</p> <p>20 A. Every time we made an order. He</p> <p>21 knows that's the only gloves that we were</p> <p>22 purchasing.</p> <p>23 Q. I didn't ask if he knew that those</p> <p>24 are the gloves you were purchasing. I'm asking</p> <p>25 if he ever told you they were 510(k) certified.</p>
<p style="text-align: right;">Page 102</p> <p>1 A. I'm not sure.</p> <p>2 Q. Did you use those gloves to -- it</p> <p>3 wasn't Mr. Stern; correct?</p> <p>4 A. I don't -- I'm not sure. I don't</p> <p>5 think so.</p> <p>6 Q. Do you know how you determined that</p> <p>7 those gloves were fake?</p> <p>8 A. I'm not sure.</p> <p>9 Q. And didn't discovery of the fake</p> <p>10 gloves cause you to run back to Mr. Stern for</p> <p>11 more gloves?</p> <p>12 A. Discovery of fake gloves?</p> <p>13 Q. Of the fake Yanimed gloves in</p> <p>14 April 2021. You know which gloves I'm talking</p> <p>15 about; correct?</p> <p>16 A. I remember the name, but I can't</p> <p>17 remember the order.</p> <p>18 Q. Okay. Can you recall any precise</p> <p>19 statements Mr. Stern ever made to you about the</p> <p>20 gloves?</p> <p>21 MR. RAKHUNOV: Objection.</p> <p>22 THE WITNESS: No.</p> <p>23 BY MR. FRISCH:</p> <p>24 Q. Did he ever make any representations</p> <p>25 to you about the quality of the gloves?</p>	<p style="text-align: right;">Page 104</p> <p>1 A. Yes, he did.</p> <p>2 Q. Where did he say that?</p> <p>3 A. He said it on all the phone calls</p> <p>4 that we had, or most of them.</p> <p>5 Q. Did he ever say it to you in</p> <p>6 writing?</p> <p>7 A. I'd have to look at the purchase</p> <p>8 order, see what he wrote down.</p> <p>9 Q. Did he ever say to you that they</p> <p>10 were ASTM D6319?</p> <p>11 A. Yes, he did.</p> <p>12 Q. Where did he say that to you?</p> <p>13 A. On the phone and I'm sure on the</p> <p>14 purchase orders too.</p> <p>15 Q. I already showed you one purchase</p> <p>16 order. In fact, it's still up on the screen.</p> <p>17 Where does it say --</p> <p>18 A. That's not my signature on that</p> <p>19 purchase order at all.</p> <p>20 Q. But he doesn't -- let me ask you</p> <p>21 another question.</p> <p>22 A. That could be a document that he</p> <p>23 forged and wrote some -- scribbled some</p> <p>24 signature on, just like the last. Both</p> <p>25 signatures I looked at don't look like my</p>

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<p style="text-align: right;">Page 105</p> <p>1 signature.</p> <p>2 Q. Okay. Now, he doesn't issue</p> <p>3 purchase orders to you; you issued purchase</p> <p>4 orders to him, did you not?</p> <p>5 A. I'd have to ask Brad Gilling.</p> <p>6 Q. Okay. So when you issued a purchase</p> <p>7 order, did it include those terms that you say</p> <p>8 you needed to have on every glove order?</p> <p>9 A. It should, yes.</p> <p>10 Q. So where is the document that</p> <p>11 actually says that?</p> <p>12 THE WITNESS: Do you have it,</p> <p>13 Phillip?</p> <p>14 MR. RAKHUNOV: No, no, no. I was</p> <p>15 going to say if you want to show him a</p> <p>16 document with --</p> <p>17 MR. FRISCH: Well, I don't think</p> <p>18 such a document exists. That's the</p> <p>19 problem. That's what I'm asking him for.</p> <p>20 If he knows of a document, I would ask him</p> <p>21 to point to it. I have not found that</p> <p>22 document.</p> <p>23 Phillip, do you know of a document</p> <p>24 that says something different? I'm happy</p> <p>25 to look at that too.</p>	<p style="text-align: right;">Page 107</p> <p>1 identification.)</p> <p>2 BY MR. FRISCH:</p> <p>3 Q. All right. This is the group chat</p> <p>4 you and Brad Gilling had with -- had with</p> <p>5 Mr. Stern. You're free to scroll through this.</p> <p>6 Tell me where in here he told you to</p> <p>7 cheat your customer.</p> <p>8 A. He said it on the phone multiple</p> <p>9 times, begging us to do it.</p> <p>10 Q. And tell me -- go through this chat</p> <p>11 and tell me where he said it in this chat,</p> <p>12 because this is discussed in the chat; correct?</p> <p>13 A. I'm not sure what chat you just put</p> <p>14 up. I'm going to read it now.</p> <p>15 Q. Okay. It's 30 pages long.</p> <p>16 A. Well, then I need some time to read</p> <p>17 it, if you want me to read it.</p> <p>18 Q. I don't -- I don't need you to read</p> <p>19 every word of it. I'm going to try to point --</p> <p>20 A. Highlight what you want me to read.</p> <p>21 Q. I'm going to point you to where I</p> <p>22 want you to go. Give me a second to find</p> <p>23 exactly where I want you to go.</p> <p>24 If you look at April 23rd -- it's</p> <p>25 on -- it looks like -- I don't know what page</p>
<p style="text-align: right;">Page 106</p> <p>1 BY MR. FRISCH:</p> <p>2 Q. Okay. Now, do you believe, sitting</p> <p>3 here today, that Mr. Stern was aware of</p> <p>4 whatever quality issues Ascension ultimately</p> <p>5 found with the gloves?</p> <p>6 A. Is he aware of the -- of what?</p> <p>7 Q. Was he aware, when he sold you the</p> <p>8 gloves, of whatever these quality issues were</p> <p>9 that caused Ascension to be unhappy with the</p> <p>10 gloves?</p> <p>11 A. Yes, he knew he was giving me fake</p> <p>12 gloves. They were not what they said on the</p> <p>13 box. He was well aware of it.</p> <p>14 Q. Why do you think he was well aware</p> <p>15 of it?</p> <p>16 A. Because he asked me to buy them and</p> <p>17 try to trick my client with them. I refused.</p> <p>18 Then he did it to me.</p> <p>19 Q. That's not actually what he said to</p> <p>20 you, but is --</p> <p>21 A. It is exactly what he said to me.</p> <p>22 Q. All right. Well, let's see what he</p> <p>23 said to you.</p> <p>24 (Exhibit Number JNS D, "NY Gloves"</p> <p>25 Chat, Started 3/26/21, was marked for</p>	<p style="text-align: right;">Page 108</p> <p>1 it is. It's April 23rd, '21. There's a</p> <p>2 conversation between Joel -- it looks like you</p> <p>3 and Bradley are on it, starting at 3:08 p.m.</p> <p>4 Do you see that?</p> <p>5 A. I'm scrolling to look for it.</p> <p>6 Q. Thank you.</p> <p>7 MR. RAKHUNOV: I think it's page 12</p> <p>8 of the exhibit document.</p> <p>9 MR. FRISCH: Thank you.</p> <p>10 THE WITNESS: April 23rd when?</p> <p>11 BY MR. FRISCH:</p> <p>12 Q. '21 at 3:08 p.m.</p> <p>13 A. JNS service -- "Hi." Okay.</p> <p>14 (Reviewing document.)</p> <p>15 Okay. What's the question?</p> <p>16 Q. All right. So on that, does that</p> <p>17 refresh your recollection about the discussion</p> <p>18 of the boxes that were going to be remarked?</p> <p>19 A. That was some of it. That</p> <p>20 discussion -- the discussion was over the</p> <p>21 phone.</p> <p>22 Q. Okay. And there, he doesn't --</p> <p>23 nobody talks there, at least in this writing,</p> <p>24 about cheating anybody; is that correct?</p> <p>25 A. Nope.</p>

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<p style="text-align: right;">Page 109</p> <p>1 Q. And this is actually after he had 2 delivered gloves to you. Isn't that also 3 correct? 4 A. Other gloves, not the ones with the 5 stickers. 6 Q. Well, how do you know when the ones 7 with the stickers were delivered? 8 A. Those came out at a different time, 9 I think, when we went to Medline. 10 Q. So when were those delivered? 11 That's what we're trying to get down to here. 12 A. You'll have to ask Medline. Medline 13 can give you the exact date, and you can 14 correlate it to this April 23 date. 15 Q. Okay. 16 A. Says right here, there's no 17 protection approved. 18 Q. Okay. So how do you know that he 19 sold them to you anyway? Because you say so? 20 A. Because they came wrapped with his 21 name on it. I took photos and videos of it and 22 gave it to my attorney. He said it on the 23 phone, and then he did exactly the way he 24 described they showed up. 25 Q. Again, but isn't it illogical for</p>	<p style="text-align: right;">Page 111</p> <p>1 Q. Oh, no. Page 13. I'm sorry. 2 A. Page 13. Let's see. 3 Page 13, which paragraph? 4 Q. Paragraph -- beginning of 5 paragraph 53. 6 A. 53. Hold on. 7 Q. I want you to read through 8 paragraph 55. 9 A. Okay. Give me a moment. 10 Q. I'm just going to run to the men's 11 room while you read it. I'll be right back. 12 MR. RAKHUNOV: He said paragraph 55. 13 THE WITNESS: (Reviewing document.) 14 BY MR. FRISCH: 15 Q. Are you ready? 16 A. No. Still reading. 17 (Reviewing document.) 18 Okay. I read it. 19 Q. All right. So here it says that the 20 supposedly fake gloves were delivered in -- on 21 April 16th. You just told me that they were 22 delivered later. Which one is it? 23 A. I told you to check when they were 24 delivered with Medline. It'll correlate 25 exactly where they were delivered and when.</p>
<p style="text-align: right;">Page 110</p> <p>1 him to ask you about it if he was just going to 2 cheat you? 3 MR. RAKHUNOV: Objection. 4 THE WITNESS: You would think so. 5 But I'm not a criminal like him; so I don't 6 know. 7 BY MR. FRISCH: 8 Q. All right. 9 A. There's a clear record of trucks 10 that arrived and when they are -- and where 11 they are racked. So it should correlate with 12 this message that you have here. 13 (Exhibit Number JNS E, First Amended 14 Counterclaim and Third-Party Complaint, was 15 marked for identification.) 16 BY MR. FRISCH: 17 Q. All right. I'm going to -- I'm 18 going to share now with you -- this is the -- 19 this document is the -- I think the -- this 20 document is your amended counterclaim and 21 third-party complaint. I'm going to direct you 22 to paragraph 53. 23 A. What page is that on? 24 Q. Should be page 14. 25 A. I've got to zoom this.</p>	<p style="text-align: right;">Page 112</p> <p>1 Q. But in your own complaint, it says 2 that they were sold on April 16th. And then on 3 April 23rd, it says he kept calling you to sell 4 you more of them; is that correct? 5 A. Maybe he shipped them and they 6 hadn't arrived yet and we haven't discovered he 7 was trying to ship us what we didn't want. 8 Q. But if he already knew he could get 9 away with it by April 16th, why by April 23rd 10 would he be asking to give you a cheaper price 11 on it? 12 MR. RAKHUNOV: Objection. 13 THE WITNESS: I'm not sure if your 14 dates make sense. Medline can identify 15 those dates, and then I can answer the 16 question. 17 BY MR. FRISCH: 18 Q. It's not my dates. It's your dates. 19 A. It's not my dates. 20 Q. These are dates you alleged in your 21 complaint. 22 A. No. No. I don't know what day 23 those trucks arrived and when they were written 24 down and documented by Medline. 25 The ones that had the stickers on</p>

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<p style="text-align: right;">Page 113</p> <p>1 them -- okay? -- they have it documented when 2 they came. 3 Even Adorama and Kitchen Winners 4 told me that Joel Stern is not selling me real 5 products. Multiple times we were -- I was told 6 that. 7 Q. When did they tell you that? 8 A. Mendel and Hershey Weiner said that 9 to me, I believe, in April and May, and to be 10 careful the products we're purchasing from 11 Joel Stern because he's not getting all of them 12 from them. 13 Q. Why would he -- you have to be 14 careful if he wasn't getting it from them? 15 A. Because they are -- I think they 16 were onto what he was doing with the stickers. 17 Q. So you think that. They didn't tell 18 you that? 19 A. They told me not to trust him. 20 Q. Told you not to trust them. Okay. 21 But you don't know why they told you not to 22 trust them. Was it just to get you to buy 23 directly from them? 24 MR. RAKHUNOV: Objection. 25 THE WITNESS: I'm not sure why they</p>	<p style="text-align: right;">Page 115</p> <p>1 Q. So why was Mr. Stern being 2 discussed? 3 A. Why was he being discussed? 4 Q. Uh-huh. 5 A. They wanted to warn me that he was a 6 criminal. 7 Q. Did they use the words "a criminal"? 8 A. Not to be trusted; we were going to 9 be getting product that's not reliable, and 10 fake. 11 Q. So now you -- so are the only fake 12 gloves you got from Joel Stern, or did you also 13 get fake gloves from Hershey Weiner and Mendel 14 Banon? 15 A. All the gloves we got are not 16 nitrile, not certified correct gloves. None of 17 them. 18 Q. So not a single glove was good is 19 your testimony? 20 A. No, it was not. Not to the 21 specifications of an expert. 22 Q. Weren't, according to your own 23 count -- you said you had Medline conduct a 24 count; correct? Weren't 50 percent of the 25 gloves at least nitrile examination gloves?</p>
<p style="text-align: right;">Page 114</p> <p>1 told me, but that's what they told me. 2 BY MR. FRISCH: 3 Q. And isn't it true that they cut him 4 out, and you guys went direct to him to cut 5 Joel Stern out of the transaction? 6 A. I'm buying gloves from whoever was 7 supplying them. I was not cutting or not 8 cutting someone out. If Medline cut him out 9 and he was buying from them -- I mean Adorama 10 and Kitchen Winners cut him out, that's 11 something between them two. 12 Q. Okay. Do you recall the dates of 13 those conversations? 14 A. April or May, I believe. 15 Q. How were those conversations held? 16 A. Over the phone. 17 Q. All right. Who was on the phone? 18 A. I was on the phone. I believe 19 Hershey Weiner was on the phone. Mendel was on 20 the phone. Brad Gillling was probably on the 21 phone. He heard it with me. 22 Q. And why were you on the phone with 23 them? What was the purpose of the phone call? 24 A. I think we were just discussing a 25 current order.</p>	<p style="text-align: right;">Page 116</p> <p>1 MR. RAKHUNOV: Objection. 2 THE WITNESS: No. They said 3 "Examination" on the box is all. 4 BY MR. FRISCH: 5 Q. Meaning, is there any requirement 6 that to be an examination glove it has to be 7 nitrile? 8 A. It has to be nitrile. There was a 9 specific specification that it has to follow. 10 Q. Well, there's a specification for 11 nitrile examination gloves, but does that mean 12 that's the only type of examination glove? 13 A. I'm not a glove expert; so I don't 14 know. 15 Q. Didn't you write to Ascension about 16 how good the gloves -- how they liked the 17 gloves? 18 A. Yes, I did. 19 Q. Okay. 20 (Exhibit Number JNS F, Email from 21 Thomas Kato to Dewayne Rader, dated 22 9/10/21, Bates-stamped RF_001034 - 1035, 23 was marked for identification.) 24 BY MR. FRISCH: 25 Q. Is this the email I'm calling up?</p>

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<p style="text-align: right;">Page 117</p> <p>1 I've labeled this -- hold on. Let me see what 2 we're up to. 3 MR. RAKHUNOV: Did you mark the 4 complaint as an exhibit? 5 MR. FRISCH: I did. I think that 6 was E. So now I'm up to F. 7 BY MR. FRISCH: 8 Q. Okay. So when Vince -- you wrote in 9 this email that Vince told you not to switch 10 the gloves: 11 "He said MedCare gloves are in all 12 the hospitals and they are very happy with 13 them, and it's more work to input a new 14 product?" 15 Do you recall saying that? 16 A. I do. 17 Q. When did that conversation with 18 Vince occur? 19 A. If I were to guess I'd say March or 20 April. 21 Q. Okay. And who is Vince? 22 A. Vince is part of the procurement 23 team. 24 Q. So you -- when did you -- who else 25 did you buy MedCare gloves from in January?</p>	<p style="text-align: right;">Page 119</p> <p>1 that you were willing to sign the contract with 2 Adorama in April. That's what you wrote to 3 Mr. Rader in September 2021; correct? 4 A. Correct. 5 Q. So I'm trying to understand here; 6 right? You say all the gloves were bad, but at 7 some point Ascension was happy with the gloves. 8 A. Yeah, they were happy with them in 9 the beginning. 10 Q. Okay. So we know that they were 11 happy with some of the gloves. 12 A. No, they were not happy with any of 13 the gloves. They were happy with the gloves in 14 the beginning. 15 Q. Okay. So how many gloves did they 16 use when they were happy with them? 17 A. I don't believe they -- they said 18 they didn't use them. They just had them 19 delivered to their hospitals and weren't being 20 used yet. That's why there was a three-month 21 delay. 22 Q. But that's not what you said here. 23 Here, it says they were all in the hospital and 24 that they were satisfied and approved. 25 A. That's what I believed, and they</p>
<p style="text-align: right;">Page 118</p> <p>1 A. A few other -- they call them "spot 2 buys." 3 Q. So you did buy from other parties? 4 A. Not MedCare. 5 Q. Okay. But you had MedCare gloves by 6 January? 7 A. We had MedCare gloves -- I'm not 8 exactly sure when the first MedCare gloves came 9 in, but we only bought MedCare from Joel Stern, 10 JNS, Adorama, and Kitchen Winners. 11 Q. Okay. So they were happy enough 12 with the gloves to tell you it wasn't worth the 13 effort of inputting new products into their 14 database; correct? 15 A. Correct. 16 Q. How many of the gloves that they got 17 were used when they were happy with them? 18 A. I'm not sure. I would guess around 19 20 million. Maybe 20. 20 MR. RAKHUNOV: No need to guess. 21 THE WITNESS: I don't know that. I 22 have no idea what Ascension does with their 23 hospitals and their gloves. 24 BY MR. FRISCH: 25 Q. Okay. But they were happy enough</p>	<p style="text-align: right;">Page 120</p> <p>1 told me to the contrary. They were not all in 2 the hospital. They were all in -- 3 Q. "Vince told us not to. He said 4 MedCare gloves are all in" -- "are in all the 5 hospitals, and they are very happy with them." 6 A. That's what I was told, yes. 7 Q. Okay. That's what Vince told you? 8 A. That's what Vince had told me. 9 Q. Okay. And you have no reason to 10 assume Vince wasn't telling the truth; correct? 11 A. Correct. 12 Q. So as far as you knew, at least some 13 of the MedCare gloves were satisfactory; is 14 that correct? 15 A. No, they were not. They were not. 16 They were tested later, and found out none of 17 them met the specifications, not a one. 18 Q. But they didn't test every carton; 19 correct? 20 A. Did a random test of them. 21 Q. Well, if they used -- let's say the 22 first shipment from JNS, if those were used in 23 the hospital, they would not be available to 24 test at that point after their use; correct? 25 A. There is lot numbers that they</p>

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<p style="text-align: right;">Page 121</p> <p>1 documented them with, and with those lot 2 numbers, they did some random testing. And we 3 did testing later. None of the gloves meet 4 specifications. Most of the gloves don't have 5 any nitrile in them. And if they do, they have 6 very light traces of nitrile. 7 Q. Were you aware that MedCare says 8 that there's a specific method to test their 9 gloves for its nitrogen composition? 10 A. Yes. 11 Q. And do you not believe that to be? 12 A. I passed that information on. And 13 as I went over it, I thought it could be true. 14 Found out it's not. It's not a -- didn't meet 15 the specifications of a D6319. 16 Q. All right. So you're saying none of 17 the gloves were ever consumed in the hospital. 18 Is that your testimony? 19 A. No, that's not what I said. 20 Q. Okay. 21 A. I said I presume -- was told they 22 delivered 10 to 20 million of them to the 23 hospital. 24 Q. Okay. 25 (Exhibit Number JNS G, Email Chain,</p>	<p style="text-align: right;">Page 123</p> <p>1 A. That email at the very top? Okay. 2 Q. Uh-huh. 3 A. (Reviewing document.) 4 Okay. So they said -- 10 to 20 5 million. They said they deployed 13 million of 6 the 187 million. 7 Q. All right. Now, in the email from 8 Brad Gilling that is below there, do you know 9 who he was -- who's DMC? Do you know? 10 A. DMC would be the Detroit Medical 11 Center. 12 Q. And you sold -- you sold them 13 gloves, or is that part of Ascension? 14 A. I don't believe we sold them gloves. 15 "Concealed [sic] with Patterson, DMC" -- maybe 16 we sold them gloves. I would have to ask. 17 Q. The individual Brad Gilling -- do 18 you know the identity of the individual Brad 19 Gilling is referring to here? 20 A. No. 21 Q. But you see that Brad said, "We 22 reviewed multiple boxes with this individual 23 and lots of gloves, and he said that they were 24 as good as any other glove he uses"? 25 A. Yep. That's what Brad and I thought</p>
<p style="text-align: right;">Page 122</p> <p>1 Bates-stamped RF_001345 - 1347, was marked 2 for identification.) 3 BY MR. FRISCH: 4 Q. I'm going to show you now -- I think 5 we're up to Exhibit G. 6 A. Want to highlight what you want me 7 to read? 8 Q. Here it says -- right at the top, 9 Dwayne Rader writes, "We have deployed only 13 10 of 187 million," as of August -- 11 A. As I said, I don't see what you're 12 reading. 13 Q. Right at the top. 14 MR. RAKHUNOV: Can you control it, 15 the document, Thomas? 16 MR. FRISCH: I cannot. 17 THE WITNESS: Right here, where it 18 says, "Yep I get it, Brad"? 19 BY MR. FRISCH: 20 Q. Yeah, that top email. 21 A. What? 22 MR. RAKHUNOV: Just read that whole 23 email, that email up top. 24 BY MR. FRISCH: 25 Q. Read that top email.</p>	<p style="text-align: right;">Page 124</p> <p>1 too when we tried them and put them on. 2 Unfortunately, we're not glove experts. 3 Q. No. Neither are nurses in a 4 hospital, actually. 5 A. I guess they have a better feel. 6 Q. All right. Let's go on. Okay. 7 So did you speak to the testing lab 8 about MedCare's suggestions about how to test 9 the gloves? 10 A. Did -- say that again. 11 Q. We discussed MedCare told you that 12 to test their gloves, you needed a different 13 procedure; correct? 14 A. Correct. 15 Q. Did you discuss that with the 16 testing lab? 17 A. Yes, we did. 18 Q. And what did they tell you? 19 A. It was nonsense. 20 Q. It was nonsense. 21 Did you buy gloves from an 22 individual named Avi? 23 A. Have I bought gloves from another 24 individual named Avi? Yes. 25 Q. Not from me. I know that.</p>

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<p>Page 125</p> <p>1 The -- and what type of gloves did</p> <p>2 you buy from him?</p> <p>3 A. I believe they were called Medgluvs.</p> <p>4 Q. And what about an individual named</p> <p>5 Ito? Did you buy gloves from him?</p> <p>6 A. Yes.</p> <p>7 Q. And what gloves did you buy from</p> <p>8 him?</p> <p>9 A. I believe Ingco.</p> <p>10 Q. Did either one of them sell you</p> <p>11 MedCare gloves?</p> <p>12 A. No.</p> <p>13 Q. Go back to Exhibit A to look more at</p> <p>14 the overall letter. Did your purchase order</p> <p>15 and documentation with Ascension specify 510(k)</p> <p>16 M -- D639 -- D6319 ratings?</p> <p>17 A. Yes.</p> <p>18 Q. Why didn't you ensure that those</p> <p>19 were in all your contracts when you purchased</p> <p>20 the gloves?</p> <p>21 MR. RAKHUNOV: Objection.</p> <p>22 THE WITNESS: That's what we said we</p> <p>23 needed.</p> <p>24 BY MR. FRISCH:</p> <p>25 Q. But was it in any written contract</p>	<p>Page 127</p> <p>1 BY MR. FRISCH:</p> <p>2 Q. So why does Mr. Reed think that they</p> <p>3 paid 37 million?</p> <p>4 A. I'm not sure.</p> <p>5 Q. How would I figure out what you paid</p> <p>6 to Ascension?</p> <p>7 A. How would you what?</p> <p>8 Q. How would I figure out exactly what</p> <p>9 you paid to Ascension?</p> <p>10 A. That I paid to Ascension?</p> <p>11 Q. What Ascension paid to you. My</p> <p>12 apologies.</p> <p>13 A. It's in the bank statements.</p> <p>14 Q. Okay. Do we have complete copies of</p> <p>15 all your bank statements?</p> <p>16 A. Yes, you do.</p> <p>17 Q. I don't believe that's true. I</p> <p>18 believe they were promised.</p> <p>19 MR. RAKHUNOV: I can tell you I've</p> <p>20 gone back after our discussion, and I</p> <p>21 believe you have complete bank statements</p> <p>22 that involve any transactions at issue.</p> <p>23 If there's something specific,</p> <p>24 Counsel, that you think is missing, please</p> <p>25 bring it to my attention. I will look</p>
<p>Page 126</p> <p>1 you've had?</p> <p>2 A. I'm sure it was.</p> <p>3 Q. Did you -- when Ascension sent you</p> <p>4 various correspondence about the gloves, did</p> <p>5 you object that they had waited too long to --</p> <p>6 A. Yes.</p> <p>7 Q. And what was their response to that?</p> <p>8 MR. RAKHUNOV: Objection.</p> <p>9 THE WITNESS: They had told me that</p> <p>10 they don't distribute them for a few</p> <p>11 months; so they started getting the calls</p> <p>12 after they started doing the distribution.</p> <p>13 (Stenographer requests</p> <p>14 clarification.)</p> <p>15 THE WITNESS: They're getting them</p> <p>16 every few months.</p> <p>17 BY MR. FRISCH:</p> <p>18 Q. Now, he says that Ascension paid you</p> <p>19 \$37 million to provide 200 million gloves. Did</p> <p>20 they, in fact, pay you \$37 million for the</p> <p>21 gloves?</p> <p>22 MR. RAKHUNOV: Objection.</p> <p>23 THE WITNESS: I believe they paid</p> <p>24 34, 35.</p> <p>25 ///</p>	<p>Page 128</p> <p>1 right away. But as I've told you before,</p> <p>2 we're not just giving you all of</p> <p>3 Rock Fintek's bank statements but the ones</p> <p>4 that involved action relevant to this case.</p> <p>5 BY MR. FRISCH:</p> <p>6 Q. Well, you said you made, like,</p> <p>7 another \$40 million from Ascension; correct?</p> <p>8 MR. RAKHUNOV: I'm not sure what</p> <p>9 that means.</p> <p>10 MR. FRISCH: Mr. Kato, I'm asking.</p> <p>11 THE WITNESS: Revenue.</p> <p>12 BY MR. FRISCH:</p> <p>13 Q. You made another -- so when I look</p> <p>14 at the bank statements, there's going to be way</p> <p>15 more revenue than relates specifically to this</p> <p>16 transaction. How would I distinguish which</p> <p>17 ones have to do with this transaction?</p> <p>18 MR. RAKHUNOV: I'm not sure --</p> <p>19 objection.</p> <p>20 THE WITNESS: Yeah, I'm not sure how</p> <p>21 you're going to do that.</p> <p>22 MR. FRISCH: Okay.</p> <p>23 MR. RAKHUNOV: I'm not sure I</p> <p>24 understand the question because if -- if</p> <p>25 it's a document-related question, we can</p>

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<p style="text-align: right;">Page 129</p> <p>1 talk about it off --</p> <p>2 MR. FRISCH: No, no, no. It's a</p> <p>3 question of -- he said I'm going to see it</p> <p>4 on the bank statement. So I'm asking him,</p> <p>5 how do I distinguish between the</p> <p>6 transactions relevant to this case and the</p> <p>7 ones that have nothing to do with this</p> <p>8 case? That's all.</p> <p>9 THE WITNESS: Maybe to do with the</p> <p>10 date.</p> <p>11 BY MR. FRISCH:</p> <p>12 Q. Okay. You're saying once this</p> <p>13 contract started, there were no other payments</p> <p>14 from Ascension?</p> <p>15 A. Correct.</p> <p>16 Q. Okay. Did you maintain a general</p> <p>17 ledger on behalf of Rock Fintek?</p> <p>18 A. Yes. Anything that we maintained,</p> <p>19 I've already given to my lawyer.</p> <p>20 Q. Okay. So did you have, like, a</p> <p>21 QuickBooks or anything like that?</p> <p>22 A. I think a spreadsheet.</p> <p>23 Q. So there's a spreadsheet showing</p> <p>24 your profit and loss and account balances?</p> <p>25 A. Yes, it should have that.</p>	<p style="text-align: right;">Page 131</p> <p>1 THE WITNESS: I had everything that</p> <p>2 I had sent over to Phillip. So --</p> <p>3 BY MR. FRISCH:</p> <p>4 Q. Okay.</p> <p>5 A. -- how they did it, I'm not sure.</p> <p>6 Q. That's fine. Okay.</p> <p>7 But Resource Group never -- never</p> <p>8 made any -- never sued you, you said; right?</p> <p>9 A. Not yet, I said.</p> <p>10 Q. Right.</p> <p>11 Do you have any agreements with them</p> <p>12 going forward? Like, are they going to get any</p> <p>13 recovery that you get in this lawsuit?</p> <p>14 A. No. Nope.</p> <p>15 Q. Did you ever give them any refunds</p> <p>16 of the \$37 million?</p> <p>17 A. No.</p> <p>18 MR. RAKHUNOV: Objection.</p> <p>19 BY MR. FRISCH:</p> <p>20 Q. Did you ever formally respond to</p> <p>21 this letter?</p> <p>22 A. I believe my attorney did.</p> <p>23 Q. Was that Attorney Phil or somebody</p> <p>24 else?</p> <p>25 THE WITNESS: Phil, did you respond</p>
<p style="text-align: right;">Page 130</p> <p>1 Q. Would that spreadsheet show</p> <p>2 specifically what you sold to Rock Fintek and</p> <p>3 what your profit was -- I'm sorry -- to</p> <p>4 Ascension and your profit on that?</p> <p>5 A. It should, yes, or loss.</p> <p>6 Q. I don't think I've seen that</p> <p>7 spreadsheet. Do you know, is that -- was that</p> <p>8 produced to us in Excel format?</p> <p>9 A. I'm not positive.</p> <p>10 MR. FRISCH: Phil, I'm going to ask</p> <p>11 for that in its original format, if that</p> <p>12 exists.</p> <p>13 MR. RAKHUNOV: I'll go back and --</p> <p>14 MR. FRISCH: Because I'm guessing</p> <p>15 that, I need to be able to, you know,</p> <p>16 manipulate.</p> <p>17 MR. RAKHUNOV: I'll have a</p> <p>18 conversation with my client after we're</p> <p>19 done. I'm not sure --</p> <p>20 MR. FRISCH: Okay.</p> <p>21 MR. RAKHUNOV: -- exactly what he's</p> <p>22 referring to, frankly. So . . .</p> <p>23 MR. FRISCH: Me neither. But if it</p> <p>24 does exist, I would want it in Excel</p> <p>25 format.</p>	<p style="text-align: right;">Page 132</p> <p>1 to this letter?</p> <p>2 MR. RAKHUNOV: I believe there was a</p> <p>3 response. And, Counsel, I think it's been</p> <p>4 produced.</p> <p>5 MR. FRISCH: It's possible. You</p> <p>6 know, there's a lot of stuff been produced</p> <p>7 that's --</p> <p>8 MR. RAKHUNOV: I'm almost -- I mean,</p> <p>9 look, things can fall through the cracks,</p> <p>10 but I'm fairly certain that you have my</p> <p>11 response to Ascension.</p> <p>12 BY MR. FRISCH:</p> <p>13 Q. Meaning -- your testimony is that</p> <p>14 other than these gloves, Ascension/Resource</p> <p>15 Group was happy with your -- with your</p> <p>16 services; is that correct?</p> <p>17 A. Yeah, they were extremely happy.</p> <p>18 MR. FRISCH: What number are we up</p> <p>19 to? I think we're up to G.</p> <p>20 MR. RAKHUNOV: H.</p> <p>21 MR. FRISCH: H or G? What are we up</p> <p>22 to?</p> <p>23 MR. RAKHUNOV: H. G was another</p> <p>24 email.</p> <p>25 MR. FRISCH: That's the only problem</p>

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<p style="text-align: right;">Page 133</p> <p>1 handling it myself. I have to remember.</p> <p>2 MR. RAKHUNOV: There's a tab right</p> <p>3 next to that exhibit that actually shows.</p> <p>4 MR. FRISCH: I know, but it's --</p> <p>5 okay. Yeah.</p> <p>6 MR. RAKHUNOV: I like that feature.</p> <p>7 MR. FRISCH: That's why I'm using</p> <p>8 this, because that way, when I dump</p> <p>9 something in my list in the middle like I</p> <p>10 did, I can --</p> <p>11 MR. RAKHUNOV: It would be nice if</p> <p>12 we could pop it out into a new window.</p> <p>13 MR. FRISCH: Yeah. I'll let them</p> <p>14 know. Because I don't -- let me share</p> <p>15 this. Oh, no, no. I just changed the -- I</p> <p>16 messed that up. Hold on. I changed the</p> <p>17 wrong one. Give me a second. This is</p> <p>18 Exhibit G. Now I'm going to close this one</p> <p>19 and go to the other Exhibit G, and let me</p> <p>20 stamp this one. H. Okay.</p> <p>21 (Exhibit Number JNS H, Email Chain,</p> <p>22 Bates-stamped RF_001042 - 1044, was marked</p> <p>23 for identification.)</p> <p>24 BY MR. FRISCH:</p> <p>25 Q. Meaning, here's a -- an email from</p>	<p style="text-align: right;">Page 135</p> <p>1 BY MR. FRISCH:</p> <p>2 Q. Let me know when you're ready.</p> <p>3 A. I'm still reading it.</p> <p>4 (Reviewing document.)</p> <p>5 Okay. I read the email.</p> <p>6 Q. All right. Do you recall the</p> <p>7 subject matter of this -- of this email?</p> <p>8 A. Yes, trying to sell the gowns.</p> <p>9 Q. Okay. And they were upset that you</p> <p>10 delivered the gowns without authorization; is</p> <p>11 that correct?</p> <p>12 A. No, I don't think so.</p> <p>13 Q. So what were you apologizing for?</p> <p>14 A. What I was I apologizing for? I</p> <p>15 don't see anything to do with apologizing</p> <p>16 for --</p> <p>17 Q. "Sorry if there was any</p> <p>18 misunderstanding."</p> <p>19 A. Misunderstanding --</p> <p>20 Q. "Sorry for long email, but" --</p> <p>21 A. Highlight specifically where I'm</p> <p>22 apologizing, and I'll read it again and answer</p> <p>23 the question.</p> <p>24 Q. Sure. What were you apologizing for</p> <p>25 there?</p>
<p style="text-align: right;">Page 134</p> <p>1 before you ever were involved with my clients.</p> <p>2 Do you recall the email that's on</p> <p>3 your screen?</p> <p>4 A. I don't see anything.</p> <p>5 MR. RAKHUNOV: There's nothing on</p> <p>6 the screen.</p> <p>7 MR. FRISCH: Oh, I didn't share it</p> <p>8 yet. I apologize.</p> <p>9 BY MR. FRISCH:</p> <p>10 Q. Now do you see it?</p> <p>11 A. You have to highlight what you want</p> <p>12 me to look at. It's very small.</p> <p>13 Q. I don't know if you can -- can you</p> <p>14 see my highlighting?</p> <p>15 A. No.</p> <p>16 Q. Now you should be able to see it.</p> <p>17 Can you see it now?</p> <p>18 A. Yeah. The whole document, you</p> <p>19 highlighted.</p> <p>20 MR. RAKHUNOV: Yeah, take your --</p> <p>21 review this email, and I note for the</p> <p>22 record it's a three-page document. So --</p> <p>23 MR. FRISCH: We'll start with the</p> <p>24 top one.</p> <p>25 THE WITNESS: (Reviewing document.)</p>	<p style="text-align: right;">Page 136</p> <p>1 A. "Sorry if there was" -- okay.</p> <p>2 (Reviewing document.)</p> <p>3 I don't know what's the</p> <p>4 misunderstanding about.</p> <p>5 Q. It was your email. I was just</p> <p>6 asking you if you know what it meant.</p> <p>7 What did you mean by -- in this</p> <p>8 paragraph? I'm highlighting a paragraph for</p> <p>9 your review here.</p> <p>10 What did you mean by this?</p> <p>11 A. "The reason I bring this up is</p> <p>12 because I believed Resource Group . . ."</p> <p>13 What's the question?</p> <p>14 Q. What did you mean by that paragraph?</p> <p>15 What were you expecting Resource Group to do</p> <p>16 for you?</p> <p>17 A. To purchase those gowns.</p> <p>18 Q. Why would they purchase gowns they</p> <p>19 didn't need?</p> <p>20 A. They wanted gowns. They asked for</p> <p>21 gowns. I got the gowns.</p> <p>22 Q. So why were they upset about the</p> <p>23 delivery of the gowns?</p> <p>24 A. Someone asked for them, and I think</p> <p>25 Brad might have just shipped them to them</p>

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<p style="text-align: right;">Page 137</p> <p>1 without them confirming that they wanted to 2 take them. 3 Q. And then the next email that you -- 4 A. Do you want me to read something 5 else? 6 Q. Sorry? 7 A. Do you want me to read something 8 else? 9 Q. I highlighted . . . 10 A. (Reviewing document.) 11 Q. How many times did you tell 12 Ascension you couldn't deliver? 13 A. That I could not deliver? 14 Q. Uh-huh. 15 A. I never said that. 16 Q. So why here did you say that you -- 17 you say, "sorry I cannot deliver"? 18 A. "I come through for all my clients a 19 lot of times when others cannot. I 20 understand . . ." 21 (Reviewing document.) 22 I didn't say I can't deliver. I 23 said I don't come back to you with excuses and 24 say I can't deliver. 25 Q. That's how you read that? Okay.</p>	<p style="text-align: right;">Page 139</p> <p>1 themselves. 2 Q. Why were they aware of it 3 themselves? 4 A. The gloves that were delivered to 5 Medline, the truck drivers couldn't get out of 6 the trucks to examine them. There was other 7 trucks that would deliver to a warehouse in 8 New York or New Jersey, and we purchased from a 9 broker, Mrs. Lee from Joel Stern or JNS. Those 10 gloves, Mrs. Lee was able to inspect. 11 Q. Correct. And was she satisfied with 12 them? 13 A. What was that? 14 Q. Was she satisfied with her 15 inspection of those gloves? 16 A. Yes, she was. 17 Q. Did she have any expertise to rely 18 on her inspection? 19 A. No. 20 Q. We have a video of her inspecting 21 them; correct? 22 A. Yes. 23 Q. And in that video, she stretches 24 them and they don't break? 25 A. I believe so.</p>
<p style="text-align: right;">Page 138</p> <p>1 Now, finally -- 2 A. That's how I wrote it. 3 Q. Sorry? 4 A. That's how I wrote it, not how I 5 read it. 6 Q. Well, we'll agree to disagree. 7 I was looking for one more, one here 8 that I want to ask you about. 9 Okay. I highlighted another line 10 here: "How many isolation gowns is MHub 11 attempting to ship to The Resource Group?" 12 Why did he believe MHub was shipping 13 to The Resource Group? 14 A. Again, because sometimes they see my 15 emails, the long reply email, when I'm using 16 Rock Fintek. 17 Q. Meaning, did you ever inform 18 Mr. Stern or anybody affiliated with JNS that 19 you were not able to inspect the gloves? 20 A. They were aware of that. 21 Q. I'm sorry? 22 A. They were aware of that. 23 Q. How were they aware of that? 24 A. They knew we couldn't inspect them. 25 I told them. They were also aware of it</p>	<p style="text-align: right;">Page 140</p> <p>1 Q. And it was on the basis of that 2 video that you bought the gloves, isn't it? 3 A. Yes. 4 Q. Mrs. Lee did not work for 5 Joel Stern; correct? 6 MR. RAKHUNOV: Objection. 7 THE WITNESS: I don't know who she 8 worked for. 9 BY MR. FRISCH: 10 Q. Didn't you pay her for finding the 11 connection to Joel Stern? 12 A. I paid her a commission. I don't 13 know if he paid her a commission also. 14 Q. Didn't Medline, in fact, inspect 15 some of the boxes? 16 MR. RAKHUNOV: Objection. 17 THE WITNESS: I don't know what 18 Medline did or did not do. 19 BY MR. FRISCH: 20 Q. Weren't some boxes reported as 21 damaged? 22 A. Yes. 23 Q. Weren't there some boxes -- didn't 24 somebody open the boxes and determine the 25 counts of which types of gloves were shipped?</p>

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<p style="text-align: right;">Page 141</p> <p>1 A. No.</p> <p>2 Q. Didn't Mr. Gilling complain on</p> <p>3 several occasions to Mr. Stern about the number</p> <p>4 of -- the sizes of the gloves that were</p> <p>5 delivered and the counts of each size?</p> <p>6 A. The sizes were incorrect, as we were</p> <p>7 told. The sizes were incorrect in the boxes.</p> <p>8 Q. How would you know, if you didn't</p> <p>9 inspect the boxes?</p> <p>10 A. The hospital told us.</p> <p>11 (Stenographer requests</p> <p>12 clarification.)</p> <p>13 BY MR. FRISCH:</p> <p>14 Q. And how would the hospital know, if</p> <p>15 they didn't inspect them?</p> <p>16 A. They were delivered to the hospital.</p> <p>17 The hospital complained about them.</p> <p>18 Q. So the hospital did inspect them</p> <p>19 shortly after they were delivered. Is that not</p> <p>20 correct?</p> <p>21 MR. RAKHUNOV: Objection.</p> <p>22 THE WITNESS: They were delivered to</p> <p>23 Medline, then delivered to the hospital.</p> <p>24 BY MR. FRISCH:</p> <p>25 Q. But the complaints about the sizing</p>	<p style="text-align: right;">Page 143</p> <p>1 they go look at the boxes and see what was in</p> <p>2 them?</p> <p>3 MR. RAKHUNOV: Objection.</p> <p>4 THE WITNESS: You can call the</p> <p>5 hospital and ask the nurses why didn't they</p> <p>6 go look at them.</p> <p>7 BY MR. FRISCH:</p> <p>8 Q. I am asking you if you know why</p> <p>9 Resource Group --</p> <p>10 A. I'm not psychic. I am not psychic.</p> <p>11 I don't know why. I don't read minds.</p> <p>12 Q. All right.</p> <p>13 A. You can ask me did I know for</p> <p>14 myself. I'm happy to answer.</p> <p>15 Q. How many gloves did you test?</p> <p>16 MR. RAKHUNOV: Objection.</p> <p>17 THE WITNESS: I'm not positive how</p> <p>18 many we tested. I gave Phillip all the</p> <p>19 documentation.</p> <p>20 BY MR. FRISCH:</p> <p>21 Q. Okay. And the ones you tested, were</p> <p>22 they all gloves obtained from Mr. Stern and</p> <p>23 Adorama, or were some of them obtained directly</p> <p>24 from MedCare?</p> <p>25 A. They were obtained from Joel Stern,</p>
<p style="text-align: right;">Page 142</p> <p>1 happened within days of the delivery, did it</p> <p>2 not?</p> <p>3 A. Somebody in the hospital looked at</p> <p>4 them and said the sizing's wrong.</p> <p>5 Q. Okay. So why couldn't they also</p> <p>6 check to make sure the boxes didn't say</p> <p>7 "Protection" on them?</p> <p>8 A. As you mentioned, they're not</p> <p>9 experts.</p> <p>10 Q. Well, if the box says "Protection"</p> <p>11 or "Examination," that seems to be something</p> <p>12 that doesn't require experts.</p> <p>13 A. Yes, I do. If I ask a random person</p> <p>14 if it's a protection or examination box,</p> <p>15 they're not going to know what that has to do</p> <p>16 with anything.</p> <p>17 Q. I don't know what it is either, but</p> <p>18 I know how to read. I know how to read. So</p> <p>19 they just needed somebody who knows how to</p> <p>20 read? is my question for you.</p> <p>21 MR. RAKHUNOV: Objection.</p> <p>22 THE WITNESS: They have somebody in</p> <p>23 the hospital that knows how to read.</p> <p>24 BY MR. FRISCH:</p> <p>25 Q. I would hope so. So why couldn't</p>	<p style="text-align: right;">Page 144</p> <p>1 JNS, Kitchen Winners, and Adorama only.</p> <p>2 Q. Didn't you obtain some directly from</p> <p>3 MedCare for potential replacements and have</p> <p>4 those tested?</p> <p>5 A. MedCare might have sent us a sample</p> <p>6 box or case.</p> <p>7 MR. RAKHUNOV: Hold on. Listen to</p> <p>8 the question.</p> <p>9 Sorry. Are you asking about the</p> <p>10 gloves that were actually sold, or are you</p> <p>11 talking about potential replacements after?</p> <p>12 MR. FRISCH: I'm trying to get the</p> <p>13 context of the testing and how many tests</p> <p>14 were actually done.</p> <p>15 THE WITNESS: Testing, I'm talking</p> <p>16 about MedCare sending in August after</p> <p>17 everything, trying to replace the damaged</p> <p>18 ones with a new product they could make to</p> <p>19 get the billion-dollar-a-year order.</p> <p>20 BY MR. FRISCH:</p> <p>21 Q. So meaning -- some of the complaints</p> <p>22 the hospital made is more that they just didn't</p> <p>23 like the gloves they purchased; isn't that</p> <p>24 correct?</p> <p>25 A. I don't believe so.</p>

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<p style="text-align: right;">Page 145</p> <p>1 Q. Meaning, they ordered MedCare 2 nitrile gloves, but -- the boxes were bought 3 from MedCare, who delivered them directly to a 4 warehouse, and then they were picked up by 5 your -- by you -- by your shipping. 6 A. With no -- with no -- not nitrile in 7 them. No nitrile and not meeting the 8 specifications. 9 Q. Okay. But you keep claiming that 10 there's fraud on the part of Mr. Stern and 11 fraud on the part of Adorama; but, really, 12 these gloves came straight from MedCare, and 13 they are MedCare gloves. 14 Is that not correct? 15 A. I bought gloves from Adorama, 16 Joel Stern, JNS, and Kitchen Winners only. 17 Q. I understand who you purchased them 18 from, but I'm asking you -- you're alleging 19 fraud. You keep saying you were -- they were 20 fake and that the gloves were fraudulent. 21 A. Yes. They committed fraud. 22 Q. But it's only fraud if they misled 23 you intentionally; right? And you keep saying 24 that -- 25 A. They did.</p>	<p style="text-align: right;">Page 147</p> <p>1 MedCare gloves, that -- 2 MR. FRISCH: That's not what I'm 3 asking him. I'm asking him under my 4 definition of "fake." He doesn't have to 5 adopt my definition; he just has to answer 6 it for the purposes of this question. 7 BY MR. FRISCH: 8 Q. Which gloves do you believe were 9 delivered to you as saying MedCare but were not 10 manufactured by MedCare? 11 A. I purchased gloves from Adorama, 12 Kitchen Winners, Joel Stern, and JNS. That's 13 what I did. That's the people I purchased 14 from. That's who I sent funds to. 15 Where they got them, I don't know 16 where they got them. They manufactured them in 17 New Jersey. Maybe they did that. Now that I 18 know that they're all a bunch of fraudulent 19 gloves with no nitrile in them, I have no idea. 20 Q. Okay. So you did not answer the 21 question. I'm asking you, because you -- 22 A. The only thing I believe that -- 23 Q. -- contend the gloves were not 24 manufactured by MedCare. On what basis are you 25 making that claim?</p>
<p style="text-align: right;">Page 146</p> <p>1 Q. -- these gloves -- you don't 2 actually think that they bought gloves that 3 weren't from MedCare; you just don't like the 4 gloves that you got from MedCare. Correct? 5 MR. RAKHUNOV: Objection. 6 Objection. That's -- there are, like, 7 legal elements in that question. There 8 are -- there's a lot in there. So -- 9 MR. FRISCH: I'll rephrase it. 10 MR. RAKHUNOV: I think that would be 11 helpful. Thank you. 12 MR. FRISCH: I will rephrase it. 13 BY MR. FRISCH: 14 Q. Which shipments of gloves do you 15 believe were fake gloves; i.e., not from 16 MedCare as a manufacturer, if any? 17 A. All the gloves were fake. 18 Q. That's not what I asked you. I'll 19 define "fake" for you. Fake is not 20 manufactured by MedCare. Which gloves were not 21 manufactured by MedCare? 22 MR. RAKHUNOV: Objection. I'm going 23 to object to the definition of "fake," but 24 if you want to ask him whether he contends 25 that any of the gloves weren't labeled as</p>	<p style="text-align: right;">Page 148</p> <p>1 A. That there were or were not -- 2 Q. That they were not manufactured by 3 MedCare. 4 MR. RAKHUNOV: I'm not sure we're 5 making that claim. So just -- okay. 6 MR. FRISCH: You have made that 7 claim. That's what I'm trying to -- let me 8 find where you say it. Give me a second. 9 I'm going to pull it up in your complaint. 10 MR. RAKHUNOV: That actually would 11 be helpful. 12 MR. FRISCH: Give me a second to 13 find it. I just need to search because I 14 actually . . . 15 Right in paragraph 2, "certain 16 gloves were non-MedCare brand gloves but 17 fake knockoffs." 18 THE WITNESS: So I believe when we 19 spoke to the CEO, Anna, at MedCare, we gave 20 her some of the lot numbers of the boxes at 21 Medline. She said she never created those 22 lot numbers ever. And those were the 23 Joel Stern/JNS boxes, I believe. 24 BY MR. FRISCH: 25 Q. Okay. Did she -- do you have a</p>

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<p style="text-align: right;">Page 149</p> <p>1 listing of --</p> <p>2 A. Which was in alignment with Henry</p> <p>3 [sic] Weiner telling me not to trust</p> <p>4 Joel Stern.</p> <p>5 Q. Do you have a listing of the</p> <p>6 supposed lot numbers that you asked her about?</p> <p>7 THE WITNESS: Phillip, do you have</p> <p>8 that?</p> <p>9 MR. RAKHUNOV: It would be reflected</p> <p>10 in the communications that have been</p> <p>11 produced in this case.</p> <p>12 MR. FRISCH: Well, it's not</p> <p>13 reflected in any communications I've seen.</p> <p>14 THE WITNESS: Should be in the</p> <p>15 messages.</p> <p>16 BY MR. FRISCH:</p> <p>17 Q. And do you -- that was in the text</p> <p>18 messages, in the WhatsApps?</p> <p>19 A. Should be in the WhatsApp message</p> <p>20 somewhere.</p> <p>21 Q. Okay. And do you have -- do you</p> <p>22 have that response from her? Was that in</p> <p>23 writing, or was that in a phone call?</p> <p>24 A. That response, then they have LevMed</p> <p>25 gloves that she also responded that her MedCare</p>	<p style="text-align: right;">Page 151</p> <p>1 these boxes that supposedly have this</p> <p>2 manufacturer on them?</p> <p>3 A. I believe we took photos and videos</p> <p>4 of them and gave them to Phillip of boxes we</p> <p>5 found. I believe these specifically had a</p> <p>6 gentleman's name, David Horowitz, on the paper</p> <p>7 that was labeled on there.</p> <p>8 Q. And who's David -- and who's David</p> <p>9 Horowitz?</p> <p>10 A. From an email that I saw from the</p> <p>11 discovery, it looks like it's someone that</p> <p>12 Joel Stern was working with, asking to</p> <p>13 repackage the boxes.</p> <p>14 Q. Which email was that?</p> <p>15 A. You'd have to ask Phillip that. He</p> <p>16 must have submitted it.</p> <p>17 MR. RAKHUNOV: You'll see it next</p> <p>18 Friday. I promise you. I have plenty of</p> <p>19 questions to Mr. Stern about that one.</p> <p>20 MR. FRISCH: Well, we'll worry about</p> <p>21 that next Friday.</p> <p>22 BY MR. FRISCH:</p> <p>23 Q. So how many -- I think I asked you.</p> <p>24 How many gloves -- you don't recall how many</p> <p>25 gloves you had tested?</p>
<p style="text-align: right;">Page 150</p> <p>1 numbers and FDA numbers was used on a LevMed</p> <p>2 box, Photoshopped. She said that directly.</p> <p>3 Q. So your allegation in paragraph 84</p> <p>4 and -- asking about -- I mean, I'm not even</p> <p>5 going to try. I'm going to highlight it for</p> <p>6 you. I'm not even going to try to pronounce</p> <p>7 that. Last time I got in a lot of trouble</p> <p>8 trying to pronounce Chinese.</p> <p>9 A. What page?</p> <p>10 Q. It's paragraph 84. It's on</p> <p>11 page 20 -- 20.</p> <p>12 A. 20. Okay. At the very bottom.</p> <p>13 (Reviewing document.)</p> <p>14 Okay. What's the question?</p> <p>15 Q. Which shipments had those boxes on</p> <p>16 it?</p> <p>17 A. Some of the shipments.</p> <p>18 Q. How will I find them?</p> <p>19 A. I don't know. You can call Medline</p> <p>20 and ask them. They're there.</p> <p>21 Q. They're not easygoing about giving</p> <p>22 us answers. So that's why I'm asking you.</p> <p>23 It's your claim.</p> <p>24 A. I had the --</p> <p>25 Q. How did you -- how did you find</p>	<p style="text-align: right;">Page 152</p> <p>1 A. No.</p> <p>2 Q. Do you know what testing -- do you</p> <p>3 know what testing you did?</p> <p>4 A. We sent them to Akron, the same</p> <p>5 place that MedCare sent them -- I mean Resource</p> <p>6 Sent them.</p> <p>7 Q. Okay. And so --</p> <p>8 A. For nitrile.</p> <p>9 Q. Okay. But some of them were tested</p> <p>10 for nitrile; some of them were tested for other</p> <p>11 things. Correct?</p> <p>12 A. Everything was tested to be D6319,</p> <p>13 and they failed all the testing.</p> <p>14 (Stenographer requests</p> <p>15 clarification.)</p> <p>16 THE WITNESS: There was zero to just</p> <p>17 traces of nitrile in any of them that we</p> <p>18 tested and that the hospital told us they</p> <p>19 tested.</p> <p>20 BY MR. FRISCH:</p> <p>21 Q. Paragraph 27 of the exhibit that's</p> <p>22 up -- that's on page 7 --</p> <p>23 A. Do you have a question for me?</p> <p>24 Q. Yeah. When did Stern tell you</p> <p>25 what's alleged in paragraph 27?</p>

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<p>Page 153</p> <p>1 A. What page is that on?</p> <p>2 Q. Page 7 to 8.</p> <p>3 A. The pages don't move up as you click</p> <p>4 on them. I have to click them myself.</p> <p>5 Q. No, I understand.</p> <p>6 A. 7 to 8, you want to highlight where</p> <p>7 you're talking about or which paragraph?</p> <p>8 Q. I'll highlight it.</p> <p>9 MR. RAKHUNOV: Numbered</p> <p>10 paragraph 27.</p> <p>11 BY MR. FRISCH:</p> <p>12 Q. It's paragraph -- but the paragraphs</p> <p>13 are numbered. It's paragraph 27.</p> <p>14 A. 27. Okay.</p> <p>15 Q. I will highlight it for you.</p> <p>16 A. 27, 28 -- okay. Perfect.</p> <p>17 Wait. What's the question?</p> <p>18 Q. When did Mr. Stern tell you this?</p> <p>19 Not somebody else. When did Mr. Stern tell you</p> <p>20 this?</p> <p>21 A. I'm not sure of the exact date.</p> <p>22 Q. And by what method did he tell you</p> <p>23 this?</p> <p>24 A. Most of our conversations were on</p> <p>25 the phone. A lot of them messages, text, but</p>	<p>Page 155</p> <p>1 between themselves. I'm not positive.</p> <p>2 Q. Okay. So you allege something to</p> <p>3 have happened, but you don't actually know if</p> <p>4 it happened?</p> <p>5 A. So Miss Lee was in communication</p> <p>6 with Joel Stern. She told me she got this</p> <p>7 information from Joel Stern. She passed it on</p> <p>8 to me, and that's how we started the</p> <p>9 relationship. She --</p> <p>10 Q. So Miss Lee got it, and she told</p> <p>11 you. Okay.</p> <p>12 A. Correct.</p> <p>13 Q. Now, the gloves that were delivered</p> <p>14 in February 2021, how do you know that they</p> <p>15 were, in fact, not compliant with the paperwork</p> <p>16 that you received?</p> <p>17 A. None of the gloves were D6319</p> <p>18 compliant.</p> <p>19 Q. But where -- how do you know that?</p> <p>20 A. Because I had them tested. The</p> <p>21 hospital had them tested.</p> <p>22 Q. How do you know that those gloves in</p> <p>23 particular were tested? That's the first</p> <p>24 90,000 gloves you bought, supposedly. So how</p> <p>25 do you know that you had those gloves tested?</p>
<p>Page 154</p> <p>1 mostly phone.</p> <p>2 Q. Okay. But these precise words, that</p> <p>3 they "had a connection to a new nitrile glove</p> <p>4 manufacturer in China that manufactured</p> <p>5 'MedCare' brand medical grade nitrile</p> <p>6 Examination gloves," when did he specifically</p> <p>7 tell you this, if he did?</p> <p>8 A. I believe towards the beginning of</p> <p>9 the year, when our relationship first was</p> <p>10 getting started.</p> <p>11 Q. Okay.</p> <p>12 A. But I'm not positive.</p> <p>13 Q. Okay. In paragraph 30 -- I'm going</p> <p>14 to scroll down to paragraph 30.</p> <p>15 What is the identity of the broker</p> <p>16 referenced in that paragraph?</p> <p>17 A. (Reviewing document.)</p> <p>18 So what's the question for this?</p> <p>19 Q. Who was the broker that's being</p> <p>20 referred to in that paragraph 30?</p> <p>21 A. I believe this could be Miss Lee.</p> <p>22 Q. And how do you know Miss Lee -- if</p> <p>23 she is the broker, how do you know that Stern</p> <p>24 provided it to her?</p> <p>25 A. I don't know how -- communication</p>	<p>Page 156</p> <p>1 A. They said everything was the same.</p> <p>2 The lot numbers were similar to the gloves we</p> <p>3 purchased.</p> <p>4 Q. Who said?</p> <p>5 A. Joel Stern, Kitchen Winners,</p> <p>6 Adorama, and JNS.</p> <p>7 Q. So you don't -- you don't know. Is</p> <p>8 that your testimony? You personally don't</p> <p>9 know --</p> <p>10 A. I just told you.</p> <p>11 Q. -- which ones you tested?</p> <p>12 A. There's lot numbers. So if you have</p> <p>13 a lot number in February, you've got a lot</p> <p>14 number in May. It's the same lot number.</p> <p>15 Q. Who made the lot numbers?</p> <p>16 A. MedCare.</p> <p>17 Q. So how do you know what those lot</p> <p>18 numbers mean?</p> <p>19 A. How do I know what they mean?</p> <p>20 Q. Yeah.</p> <p>21 A. They're to identify a batch of</p> <p>22 gloves.</p> <p>23 Q. Okay. But isn't it better to</p> <p>24 identify a batch of gloves by the ones you</p> <p>25 actually received and tested? Just because</p>

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<p style="text-align: right;">Page 157</p> <p>1 somebody put a number on a box, how do we know</p> <p>2 which gloves you were testing?</p> <p>3 MR. RAKHUNOV: Objection.</p> <p>4 THE WITNESS: That's how they</p> <p>5 identified them.</p> <p>6 BY MR. FRISCH:</p> <p>7 Q. So you don't know if you test -- if</p> <p>8 you tested a single glove from that initial</p> <p>9 February shipment; is that correct?</p> <p>10 A. No, I do. No, that's not correct.</p> <p>11 I said I tested the same lot numbers February,</p> <p>12 April, May.</p> <p>13 Q. So is your testimony that you went</p> <p>14 to the shipment of gloves that was received in</p> <p>15 February 2021 and tested one of those gloves,</p> <p>16 or is your testimony that you tested similar</p> <p>17 lot numbers that may or may not have been from</p> <p>18 that shipment?</p> <p>19 A. Not similar lot numbers. Exact. We</p> <p>20 have --</p> <p>21 Q. That may or may not have been from</p> <p>22 that shipment.</p> <p>23 A. We have all lot numbers and when</p> <p>24 they were delivered, when they were received.</p> <p>25 Q. Where are these lot numbers on the</p>	<p style="text-align: right;">Page 159</p> <p>1 that it wasn't an error in the printing of the</p> <p>2 boxes by the manufacturer?</p> <p>3 A. No. They need to say "Nitrile</p> <p>4 Glove," and they have to test for it.</p> <p>5 Q. Okay. So is it possible that the</p> <p>6 manufacturer printed the wrong boxes and put</p> <p>7 them in the wrong boxes?</p> <p>8 MR. RAKHUNOV: Objection.</p> <p>9 THE WITNESS: I don't believe so.</p> <p>10 BY MR. FRISCH:</p> <p>11 Q. Why not?</p> <p>12 A. I believe Joel Stern did what he</p> <p>13 said he was going to do to the gloves and the</p> <p>14 boxes and --</p> <p>15 Q. That's not what I asked you. I</p> <p>16 asked you if it's possible.</p> <p>17 MR. RAKHUNOV: Objection.</p> <p>18 THE WITNESS: Possible I win the</p> <p>19 lottery today also, but not probable.</p> <p>20 BY MR. FRISCH:</p> <p>21 Q. Good luck.</p> <p>22 Okay. In paragraph 44, you state</p> <p>23 that the purchases with Stern were between</p> <p>24 April 16th and May 2nd.</p> <p>25 A. What page is it?</p>
<p style="text-align: right;">Page 158</p> <p>1 boxes?</p> <p>2 A. Written on the box.</p> <p>3 Q. What format are they in?</p> <p>4 A. Numbers and letters.</p> <p>5 Q. Okay. So -- whatever. I think</p> <p>6 we've beaten this to death, and I want to get</p> <p>7 done.</p> <p>8 Do you have any reason to assume</p> <p>9 that the gloves labeled "Protection" were, in</p> <p>10 fact, not just mislabeled but wrongly printed</p> <p>11 boxes?</p> <p>12 A. Say that one more time, the</p> <p>13 question.</p> <p>14 Q. Do you have any basis to assert --</p> <p>15 your assertion that Mr. Stern's claim that the</p> <p>16 boxes were simply misprinted and that the</p> <p>17 gloves were the same gloves -- do you have any</p> <p>18 basis to conclude that isn't true?</p> <p>19 A. The boxes have to say "Exam" on</p> <p>20 them. Same -- so if they don't say "Exam" --</p> <p>21 or they should say "Non-Nitrile Glove."</p> <p>22 Q. Okay. I don't really understand</p> <p>23 what that answer is, but okay. We'll just try</p> <p>24 again.</p> <p>25 Do you have any basis to conclude</p>	<p style="text-align: right;">Page 160</p> <p>1 Q. Page 11.</p> <p>2 A. Page 11, 44. Okay. What's the</p> <p>3 question now?</p> <p>4 Q. Were -- are you not complaining</p> <p>5 about the gloves delivered in February?</p> <p>6 A. I was complaining about all the</p> <p>7 gloves delivered.</p> <p>8 Q. Okay. So you're -- so it's an error</p> <p>9 in the complaint. Is that accurate? I just</p> <p>10 want to make sure I understand the scope of</p> <p>11 what you're claiming.</p> <p>12 A. "Between on or about April . . ."</p> <p>13 (Reviewing document.)</p> <p>14 I'm not -- I'm not following the</p> <p>15 error, what you're talking about is an error.</p> <p>16 Q. Wasn't the first purchase from</p> <p>17 Mr. Stern in February?</p> <p>18 A. It was early in that year.</p> <p>19 Q. Yeah. So why is it -- why is your</p> <p>20 complaint only talking about the transactions</p> <p>21 from April 16th and May 2nd? That's what I'm</p> <p>22 asking you.</p> <p>23 A. I think we should ask Phillip that.</p> <p>24 Q. Okay. Paragraph 52, "Because of</p> <p>25 Stern's shuffling between using various</p>

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<p style="text-align: right;">Page 161</p> <p>1 entities, and directing payment to one entity 2 while purporting to operate under another 3 entity, Stern was simply using these entities 4 as his personal shells and commingling funds 5 among his entities and not observing corporate 6 formalities." 7 What is the basis of your 8 allegations here? What is the factual basis 9 for those? 10 A. He told me he was an accountant. He 11 does accounting work. 12 Q. Okay. 13 A. He doesn't buy and sell products. 14 Q. Okay. How does that -- how does 15 that justify the claims made in paragraph 52? 16 A. So he said, more or less, he was 17 acting as a straw man for his real estate 18 investors. They were getting the lion's share 19 of it and putting up all the money for it. He 20 was making a small part. 21 Q. Do you have any evidence to sit -- 22 to substantiate your claim that Mr. Stern 23 placed the stickers on the boxes? 24 A. They were placed exactly as he 25 described and -- and wanted me to present them</p>	<p style="text-align: right;">Page 163</p> <p>1 Q. Did you suggest to the hospital you 2 could get them cheaper gloves because of the 3 incorrectly printed boxes? 4 A. No. I said -- "No way" is what I 5 said. 6 Q. Did Stern complain about Rock Fintek 7 to Adorama and Weiner? 8 A. I don't know what he says to them. 9 Q. Sorry? 10 A. I don't know what he says to them 11 about -- 12 Q. Well, then, go to paragraph 90 on 13 page 22. 14 A. Page what? 15 Q. 22. 16 A. 22. What paragraph? 90? 17 Q. Yeah. 18 A. "Rock Fintek similarly reached out 19 to Stern in writing to notify him about the 20 discovery of the fake gloves and to seek . . ." 21 (Reviewing document.) 22 I don't -- what's the question? 23 Q. How did you know about the complaint 24 of Stern to Adorama and Weiner that you allege 25 here?</p>
<p style="text-align: right;">Page 162</p> <p>1 to the hospital. 2 Q. Did you present them to the 3 hospital? 4 A. I had them -- they were delivered to 5 the hospital. 6 Q. No, no. I asked you, when he 7 proposed it to you, did you ask the hospital 8 about it? 9 A. I don't understand the question. 10 Q. Did you propose to the hospital that 11 you would sell them those gloves at a cheaper 12 price? 13 A. No. Absolutely -- I didn't even 14 offer it to the hospital. 15 Q. Why not? 16 A. Why would I offer to sell them fake 17 gloves with the -- 18 Q. Who said they were fake? 19 A. He said he's putting a fake label on 20 top of a box, a real label on top of a fraud -- 21 Q. He said he was correcting the box. 22 A. No, he didn't say -- 23 Q. That's what it says, correcting the 24 box. 25 A. No.</p>	<p style="text-align: right;">Page 164</p> <p>1 A. I'm not sure. 2 Q. Okay. 3 A. I don't recollect. 4 Q. Okay. 5 MR. RAKHUNOV: It's in the messages, 6 Avi. It's there in writing. 7 MR. FRISCH: I'm asking him. 8 MR. RAKHUNOV: I know. I'm -- 9 THE WITNESS: I don't have a 10 photographic memory. So I don't have that. 11 BY MR. FRISCH: 12 Q. We rely on that. 13 Did you stiff Alex King the lasting 14 \$45,000 of his money? 15 MR. RAKHUNOV: Objection. 16 THE WITNESS: No. 17 BY MR. FRISCH: 18 Q. So why didn't you pay him his final 19 bills? 20 A. I believe he owes me money. 21 Q. Why do you think that? 22 A. Because he miscounted the 23 deliveries. 24 Q. Did you sue him? 25 A. Nope.</p>

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<p style="text-align: right;">Page 165</p> <p>1 Q. Why not? 2 A. Why not? 3 MR. RAKHUNOV: Objection. 4 THE WITNESS: I'm going to sue the 5 criminals instead. 6 MR. RAKHUNOV: To the extent that 7 anything you might answer involves 8 conversations with lawyers, I'm instructing 9 you not to answer. But otherwise, you're 10 free to answer. 11 THE WITNESS: I have not sued them 12 yet. 13 BY MR. FRISCH: 14 Q. Okay. Did you boast to Stern that 15 you had other suppliers for MedCare gloves? 16 A. The supplier meaning Adorama, 17 Kitchen -- 18 Q. Other than Adorama and 19 Kitchen Winners. 20 A. No, I don't believe so. 21 Q. Well, then why did you say -- I 22 have -- I'm going to highlight it for you on 23 this thing. I believe -- this exhibit's 24 already been marked. This is the chats with 25 Joel Stern. I'm going to highlight for you.</p>	<p style="text-align: right;">Page 167</p> <p>1 Q. And who did you buy from before 2 Adorama? 3 A. Joel Stern, JNS. 4 Q. But that's not who you're referring 5 to here because you're talking to Joel Stern. 6 So who are you referring to when you say, "We 7 have other people that we bought from before 8 Adorama"? 9 A. Avi, the gentleman you mentioned in 10 Miami. 11 Q. Did you buy MedCare from him? 12 A. No. Didn't buy MedCare from anybody 13 else. 14 Q. But you say "will buy LA MedCare 15 gloves." So you're saying that this is not 16 referring to MedCare gloves; this is referring 17 to other gloves? 18 A. I'm saying I did not buy MedCare 19 gloves from anybody else. 20 Q. Despite your statements to the 21 contrary. Got it. 22 MR. RAKHUNOV: Objection. 23 THE WITNESS: There's a broker in 24 LA. 25 (Simultaneous speaking.)</p>
<p style="text-align: right;">Page 166</p> <p>1 Tommy Kato: "Your order has nothing 2 to do with them. We have another Group" -- 3 A. What page? I can't see. 4 Q. Oh, that's right. You can't see it. 5 The page number is 16. 6 I'm almost done. I'm trying to get 7 finished so we can take a break before Alex 8 goes. 9 A. I don't need a break. I'm good. 10 Q. Yeah, but I'm sure Rhonda does. 11 MR. RAKHUNOV: The court reporter 12 will certainly need a break. 13 MR. FRISCH: Yeah. 14 THE WITNESS: Oh. 15 MR. FRISCH: I think I'm five 16 minutes left though, five to ten minutes. 17 THE WITNESS: (Reviewing document.) 18 Okay. And the question was? 19 BY MR. FRISCH: 20 Q. Who are the other people that you 21 are referring to there? 22 A. Might be that David Horowitz that 23 Joel Stern was working with, I think. He was 24 selling to another -- some other brokers out 25 there in California.</p>	<p style="text-align: right;">Page 168</p> <p>1 CERTIFIED STENOGRAPHER: Excuse me. 2 You guys are both talking at the same time. 3 MR. RAKHUNOV: Thomas, you're being 4 asked about the specific message, which I'm 5 seeing two separate messages there, one 6 about MedCare, the other about something 7 else. So . . . 8 BY MR. FRISCH: 9 Q. All right. Whatever you were just 10 saying, can you repeat it? 11 A. There was brokers in LA that said 12 they had access to the same MedCare gloves, but 13 we never made any purchases to them -- from 14 them. 15 Q. Thank you. 16 Did you have communications with 17 MedCare directly -- 18 A. They were never verified. 19 Q. -- about the gloves? 20 A. And they were never verified. 21 Q. Did you -- did you have 22 communications with MedCare about the gloves? 23 A. After the -- after we got the 24 complaints. 25 Q. Did -- did you ask MedCare to</p>

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<p style="text-align: right;">Page 169</p> <p>1 replace the gloves?</p> <p>2 A. Yes.</p> <p>3 Q. Did they offer to replace some</p> <p>4 number of them?</p> <p>5 A. Yes.</p> <p>6 Q. Did they ever claim the gloves you</p> <p>7 received were fake?</p> <p>8 A. I don't believe so.</p> <p>9 Q. Did MedCare ever tell you that their</p> <p>10 protection and their examination gloves are the</p> <p>11 same thing?</p> <p>12 A. They said they're different</p> <p>13 completely.</p> <p>14 Q. Did MedCare ever tell you that they</p> <p>15 were the same?</p> <p>16 A. I don't believe so. I'd have to</p> <p>17 check my communication.</p> <p>18 Q. Let me go to one more exhibit. I</p> <p>19 think this might actually be the last one I</p> <p>20 use.</p> <p>21 MR. FRISCH: Anybody remember --</p> <p>22 what are we up to? The last one we did was</p> <p>23 H.</p> <p>24 (Exhibit Number JNS I, Chat Started</p> <p>25 8/9/21, was marked for identification.)</p>	<p style="text-align: right;">Page 171</p> <p>1 MedCare and the other parts of the MedCare</p> <p>2 team?</p> <p>3 A. Yeah.</p> <p>4 Q. Can you go to page 13, please. I'm</p> <p>5 going to highlight something for you.</p> <p>6 A. Okay.</p> <p>7 MR. RAKHUNOV: Sorry. What page?</p> <p>8 MR. FRISCH: 13. You should see it</p> <p>9 highlighted. I have been deleting the</p> <p>10 highlights after I show it to him.</p> <p>11 MR. RAKHUNOV: Okay.</p> <p>12 MR. FRISCH: So they don't stay on</p> <p>13 the final exhibits.</p> <p>14 THE WITNESS: (Reviewing document.)</p> <p>15 BY MR. FRISCH:</p> <p>16 Q. Have you read the highlighted</p> <p>17 portion?</p> <p>18 A. Hold on.</p> <p>19 (Reviewing document.)</p> <p>20 Yes.</p> <p>21 Q. They also told you themselves that</p> <p>22 they go through about 1 billion gloves a year</p> <p>23 and would entertain letting you bid that</p> <p>24 contract.</p> <p>25 Is that MedCare would bid directly</p>
<p style="text-align: right;">Page 170</p> <p>1 BY MR. FRISCH:</p> <p>2 Q. Okay. This chat is -- it's labeled</p> <p>3 in -- I have it as the -- your chats with --</p> <p>4 with MedCare, and it looks like you have it</p> <p>5 with an individual named Danny Lee China Man</p> <p>6 and Anna Grinwald [sic] -- well, you write</p> <p>7 Geinwald, but I think it's Anna Grinwald,</p> <p>8 MedCare CEO; correct?</p> <p>9 Do you recognize these chats?</p> <p>10 A. You've got to tell me what page.</p> <p>11 Q. No, I'm just asking you if you</p> <p>12 recognize this document.</p> <p>13 A. I don't see the document.</p> <p>14 Q. You don't see it on your screen?</p> <p>15 A. I just see the same 25-page</p> <p>16 messages. Or this is a new message?</p> <p>17 Q. Okay. Yes. So these -- in general.</p> <p>18 This is a different set of messages.</p> <p>19 A. Okay. I've got to zoom it up, look</p> <p>20 at it. MedCare messages . . .</p> <p>21 (Reviewing document.)</p> <p>22 So -- okay. So what about these</p> <p>23 messages?</p> <p>24 Q. I want to know, do you recall</p> <p>25 this -- these conversations with Anna of</p>	<p style="text-align: right;">Page 172</p> <p>1 to the hospital for the contract?</p> <p>2 A. MedCare would -- no. We would -- we</p> <p>3 would go through Rock Fintek.</p> <p>4 Q. And how much profits -- how much</p> <p>5 would the profits have been on that contract?</p> <p>6 MR. RAKHUNOV: Objection.</p> <p>7 THE WITNESS: Maybe a billion</p> <p>8 dollars. I don't know. I didn't get the</p> <p>9 contract. We didn't get into the numbers.</p> <p>10 BY MR. FRISCH:</p> <p>11 Q. Okay. Did you ever resell any of</p> <p>12 the gloves?</p> <p>13 A. Nope. We did not.</p> <p>14 Q. Did you ever get the three</p> <p>15 containers MedCare promised you?</p> <p>16 A. Nope.</p> <p>17 Q. Does the spreadsheet you mentioned</p> <p>18 earlier demonstrate how much Ascension</p> <p>19 withheld?</p> <p>20 MR. RAKHUNOV: Objection.</p> <p>21 THE WITNESS: Does the spreadsheet</p> <p>22 what?</p> <p>23 BY MR. FRISCH:</p> <p>24 Q. You said you have a spreadsheet</p> <p>25 ledger for the company; right?</p>

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1 A. I said I gave all my documentation
2 to -- if I have a sheet, we produced a
3 spreadsheet and gave him a spreadsheet. I
4 don't know in which fashion that it --
5 **Q. I don't really care what format it's**
6 **in. I'll take that up with him afterwards.**
7 **But do you have any sort of ledger,**
8 **just general ledger --**
9 A. I'm not sure.
10 **Q. -- for the business?**
11 A. I'm not sure. Whatever I gave
12 him -- whatever I have, I gave to Phillip. I'm
13 not sure what it is, what ledger, what format.
14 MR. FRISCH: Okay. That's all I've
15 got.
16 THE WITNESS: Okay.
17 MR. FRISCH: So I would suggest we
18 take a lunch break until, like, 2:00, and
19 then come back and Alex will grill you.
20 THE WITNESS: Sure.
21 (Luncheon recess from 1:26 p.m. to
22 2:04 p.m.)
23 EXAMINATION
24 BY MR. SPERBER:
25 **Q. Good afternoon, Mr. Kato. My name**

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1 **is Alexander Sperber. I am the attorney in**
2 **this matter for Kitchen Winners, for Adorama,**
3 **and for Joseph Mendlowitz.**
4 **I'm going to do my best to try and**
5 **not repeat too much of what Mr. Frisch went**
6 **over earlier, but let me just as a general**
7 **matter start off.**
8 **Do you understand that you're under**
9 **the same oath that you would be as if you were**
10 **in a courtroom?**
11 A. Yes, I am.
12 **Q. And you understand even though**
13 **you're testifying remotely today at a**
14 **deposition that the testimony you give under**
15 **oath here is subject to the same penalty of**
16 **perjury as though you were testifying in court**
17 **of law?**
18 A. Yes, I do.
19 **Q. Okay. If you don't understand one**
20 **of my questions, please let me know. Unless**
21 **you tell me otherwise, I'm going to assume that**
22 **you understood the question.**
23 **Is that all right?**
24 A. Correct. Thank you. Understood.
25 **Q. And, again, just as earlier, if you**

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1 **need a break during the deposition, as long as**
2 **there's no question pending, we're happy to**
3 **accommodate.**
4 A. Sounds good.
5 **Q. All right. Mr. Kato, am I correct**
6 **that you testified earlier that Rock Fintek was**
7 **formed in 2018?**
8 A. Yes.
9 **Q. I'm sorry?**
10 A. Yes.
11 **Q. And Rock Fintek got into the**
12 **personal protective equipment business around**
13 **2020?**
14 A. Correct.
15 **Q. Okay. And if I refer to personal**
16 **protective equipment as "PPE," is that all**
17 **right?**
18 A. Yes, it is.
19 **Q. What was Rock Fintek doing between**
20 **2018 and 2020 when Rock Fintek got into the PPE**
21 **business?**
22 A. Selling other products.
23 **Q. What products?**
24 A. A variety of products, from pots and
25 pans to different types of plastic products,

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1 USB sticks. You know, the same person that we
2 started buying gloves from was a company called
3 Multilaser in Brazil, a publicly traded
4 company, and they had about 5,000 SKUs of
5 products we were selling.
6 **Q. Okay.**
7 A. So when COVID hit, nobody was buying
8 their products, and they were able to supply
9 PPE instead of the other products.
10 **Q. And what kind of PPE did you buy**
11 **from them?**
12 A. Masks. Masks and -- I think just
13 masks.
14 **Q. Okay. Do you know when you --**
15 A. I think we also bought some
16 bouffants and booties.
17 (Stenographer requests
18 clarification.)
19 BY MR. SPERBER:
20 **Q. Do you know when Rock Fintek first**
21 **came into contact with Ascension?**
22 A. I would say around March 2020,
23 February or March. Probably March.
24 **Q. And who was -- who made that**
25 **connection?**

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<p style="text-align: right;">Page 177</p> <p>1 A. Who made the connection? A</p> <p>2 gentleman, Nick Sansone.</p> <p>3 Q. Okay. And who did he connect you</p> <p>4 with at Ascension?</p> <p>5 A. He connected me with a gentleman --</p> <p>6 I believe it was Todd Adams, Dewayne Rader, and</p> <p>7 a few people. I'm not sure everybody that was</p> <p>8 on the initial call.</p> <p>9 Q. And when you had that initial call</p> <p>10 with Ascension, what did Ascension tell you</p> <p>11 they were looking for, if anything?</p> <p>12 A. Masks.</p> <p>13 Q. Okay. And were -- was Rock Fintek</p> <p>14 able to procure masks for Ascension?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. And that was around, again,</p> <p>17 February or March 2020?</p> <p>18 A. Or March, yes.</p> <p>19 Q. Did there come a time when</p> <p>20 Rock Fintek -- excuse me -- when Ascension</p> <p>21 asked Rock Fintek if it could procure gloves</p> <p>22 for Ascension?</p> <p>23 A. Say that one more time.</p> <p>24 Q. Did there come a time when Ascension</p> <p>25 asked Rock Fintek if it could procure gloves</p>	<p style="text-align: right;">Page 179</p> <p>1 identification.)</p> <p>2 BY MR. SPERBER:</p> <p>3 Q. Mr. Kato, do you see a document in</p> <p>4 front of you that I've marked as KWA-Kato A</p> <p>5 [sic]?</p> <p>6 A. Where does it say that?</p> <p>7 Q. In the red box on the bottom</p> <p>8 right-hand corner.</p> <p>9 A. Red box, bottom corner.</p> <p>10 Q. There's a stamp.</p> <p>11 A. Yes, I see it.</p> <p>12 Q. Okay.</p> <p>13 MR. FRISCH: Just so you know, you</p> <p>14 can move the box over so it doesn't block</p> <p>15 the -- it doesn't block the Bates number if</p> <p>16 you want.</p> <p>17 MR. SPERBER: Okay.</p> <p>18 BY MR. SPERBER:</p> <p>19 Q. The document appears to be labeled a</p> <p>20 purchase order. It's from Ascension, and it</p> <p>21 seems, if I zoom in on the -- the top right</p> <p>22 corner, it says it is dated August 13, 2020.</p> <p>23 A. Yes.</p> <p>24 Q. Do you see where I am?</p> <p>25 A. I see that.</p>
<p style="text-align: right;">Page 178</p> <p>1 for them?</p> <p>2 A. Yes.</p> <p>3 Q. And when was that?</p> <p>4 A. Around the fall of 2020.</p> <p>5 Q. When you were doing business with</p> <p>6 Ascension, how did Ascension document its</p> <p>7 agreements with Rock Fintek?</p> <p>8 A. There were just purchase orders.</p> <p>9 Q. So there was no contract beyond the</p> <p>10 purchase order?</p> <p>11 A. No.</p> <p>12 Q. Okay. I'm going to try and show you</p> <p>13 an exhibit, and we'll see if this works.</p> <p>14 Can you see a document in front of</p> <p>15 you?</p> <p>16 A. I can see it. I can enlarge it.</p> <p>17 Okay.</p> <p>18 Q. I'm going to stamp this as --</p> <p>19 MR. RAKHUNOV: Tom, make sure you</p> <p>20 can see the details of the document well</p> <p>21 enough to read it, because there's a lot of</p> <p>22 small text here.</p> <p>23 (Exhibit Number KWA-Kato 1, Purchase</p> <p>24 Order dated 8/13/20, Bates-stamped</p> <p>25 RF_001166 - 1167, was marked for</p>	<p style="text-align: right;">Page 180</p> <p>1 Q. Do you recognize this document?</p> <p>2 A. Let me review it.</p> <p>3 (Reviewing document.)</p> <p>4 I can't say I recognize it, but I</p> <p>5 understand it.</p> <p>6 Q. What is this document?</p> <p>7 A. Seems to be a purchase order or the</p> <p>8 reconciliation on it of what was paid and not</p> <p>9 paid.</p> <p>10 Q. And was Rock Fintek selling gloves</p> <p>11 to Ascension in August -- in or around</p> <p>12 August 2020?</p> <p>13 A. Yes. Or the fall, yeah. That</p> <p>14 August or September.</p> <p>15 Q. So do you recall -- which brand</p> <p>16 gloves did Rock Fintek procure to meet this</p> <p>17 purchase order?</p> <p>18 A. I believe we had Medgluv and Ingco,</p> <p>19 maybe Safeko. I'm not sure if I can remember</p> <p>20 all the brands.</p> <p>21 Q. Okay. Was one of the brands</p> <p>22 MedCare?</p> <p>23 A. No.</p> <p>24 Q. And did Rock Fintek procure the</p> <p>25 gloves for this purchase order from either</p>

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<p style="text-align: right;">Page 181</p> <p>1 Kitchen Winners, Adorama, JNS, or Stern?</p> <p>2 A. No.</p> <p>3 Q. Okay. Was Ascension happy with the</p> <p>4 gloves that Rock Fintek procured pursuant to</p> <p>5 that purchase order?</p> <p>6 A. They seemed to be. They didn't --</p> <p>7 Q. Was there a reason why in the</p> <p>8 future, when you were procuring additional</p> <p>9 gloves for Ascension, that you did not go</p> <p>10 forward with those suppliers?</p> <p>11 A. We had another supplier we found in</p> <p>12 Thailand that Hunton vetted for us. And it was</p> <p>13 a slightly better price, about 15 percent, and</p> <p>14 we went with that one.</p> <p>15 By the time we wanted -- that one</p> <p>16 fell through -- to go back to this supplier it</p> <p>17 was more complicated, and then it seemed more</p> <p>18 comfortable to deal with a US company instead</p> <p>19 of an overseas company, after the mishap in</p> <p>20 Thailand.</p> <p>21 Q. And your suppliers for the purchase</p> <p>22 order in front of you, those were -- the</p> <p>23 suppliers were overseas companies?</p> <p>24 A. Yes.</p> <p>25 Q. I'm going to share another document</p>	<p style="text-align: right;">Page 183</p> <p>1 A. Correct.</p> <p>2 Q. Okay. All right. I'm going to</p> <p>3 share with you another document.</p> <p>4 (Exhibit Number KWA-Kato 3, Purchase</p> <p>5 Order dated 12/7/20, Bates-stamped</p> <p>6 RF_001284 - 1285, was marked for</p> <p>7 identification.)</p> <p>8 BY MR. SPERBER:</p> <p>9 Q. Okay. I'm showing you a document</p> <p>10 that I have labeled Exhibit KWA-Kato 3.</p> <p>11 A. Okay.</p> <p>12 Q. Do you see it in front of you?</p> <p>13 A. Yes, I do.</p> <p>14 Q. This is -- also appears to be a</p> <p>15 purchase order with the date of December 7th,</p> <p>16 2020.</p> <p>17 Do you see where I am?</p> <p>18 A. Yes.</p> <p>19 Q. Do you recognize this document?</p> <p>20 A. Yeah. Yes.</p> <p>21 Q. What is this document?</p> <p>22 A. It's a purchase order from</p> <p>23 Ascension.</p> <p>24 Q. And how many gloves is this purchase</p> <p>25 order for?</p>
<p style="text-align: right;">Page 182</p> <p>1 with you which I'm going to stamp KWA --</p> <p>2 (Exhibit Number KWA-Kato 2, Purchase</p> <p>3 Order dated 8/13/20, Bates-stamped</p> <p>4 RF_001171 - 1177, was marked for</p> <p>5 identification.)</p> <p>6 BY MR. SPERBER:</p> <p>7 Q. Okay. Mr. Kato, do you see in front</p> <p>8 of you a document that I stamped Exhibit</p> <p>9 KWA-Kato 2?</p> <p>10 A. Yes.</p> <p>11 Q. All right. It appears to be a</p> <p>12 purchase order with a date of August 13, 2020.</p> <p>13 You see where I am over there?</p> <p>14 A. Yes.</p> <p>15 Q. I can just tell you that the</p> <p>16 previous purchase order ended -- the last two</p> <p>17 digits on the purchase order were 83 -- oh, did</p> <p>18 I do this twice? The previous one ended on 82,</p> <p>19 and this one ends 83. So it appears that there</p> <p>20 were two purchase orders.</p> <p>21 Does this ring a bell with you?</p> <p>22 A. No.</p> <p>23 Q. Would this have been part of the</p> <p>24 same transaction that you were discussing</p> <p>25 earlier with Ascension?</p>	<p style="text-align: right;">Page 184</p> <p>1 A. I've got to see where it says it.</p> <p>2 "Quantity, 15000 CSA [sic]." Maybe it's 150</p> <p>3 million. It says 150, 15,000. I don't know</p> <p>4 how it's written. This -- cases, cartons. The</p> <p>5 "CA" maybe stands for carton. I'm not</p> <p>6 positive.</p> <p>7 Q. Besides these three purchase orders</p> <p>8 that we've looked at, did Ascension give any</p> <p>9 other purchase orders to Rock Fintek for</p> <p>10 gloves?</p> <p>11 A. I don't believe so.</p> <p>12 Q. Okay.</p> <p>13 A. But I recollected the number was 200</p> <p>14 million total.</p> <p>15 Q. Okay.</p> <p>16 A. This 150, and the other one I</p> <p>17 remember the number.</p> <p>18 Q. When you say "total," you mean</p> <p>19 between all three purchase orders or for --</p> <p>20 A. Correct.</p> <p>21 Q. So when Rock Fintek claims that it</p> <p>22 sold 200 million gloves to Ascension, the claim</p> <p>23 is not that Rock Fintek was buying all those</p> <p>24 gloves from Kitchen Winners, Adorama, JNS, and</p> <p>25 Joel Stern; correct?</p>

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<p style="text-align: right;">Page 185</p> <p>1 MR. RAKHUNOV: Objection.</p> <p>2 THE WITNESS: We bought this last</p> <p>3 purchase order from them and a couple other</p> <p>4 suppliers, not the first one you showed me.</p> <p>5 BY MR. SPERBER:</p> <p>6 Q. Okay. How many total gloves did</p> <p>7 Rock Fintek purchase from JNS or Stern?</p> <p>8 A. Between JNS and Stern versus</p> <p>9 Adorama, you mean, or --</p> <p>10 Q. Yeah. How many gloves did</p> <p>11 Rock Fintek purchase directly from JNS or</p> <p>12 Stern?</p> <p>13 A. I don't remember off the top of my</p> <p>14 head. I looked at it, but I can't remember the</p> <p>15 numbers.</p> <p>16 Q. What did Rock Fintek do with the</p> <p>17 gloves that it purchased from JNS or Stern?</p> <p>18 A. They were all delivered to Medline</p> <p>19 for -- to go to Ascension.</p> <p>20 Q. Okay. How many gloves did -- did</p> <p>21 Rock Fintek purchase from Adorama or</p> <p>22 Kitchen Winners?</p> <p>23 A. I don't remember the exact amount.</p> <p>24 Q. Approximately.</p> <p>25 A. I would say 180 to 200 million.</p>	<p style="text-align: right;">Page 187</p> <p>1 did Rock Fintek -- did Ascension pay</p> <p>2 Rock Fintek?</p> <p>3 A. They paid about 34 or 35 million.</p> <p>4 Q. Okay. If I wanted to know the exact</p> <p>5 number, where can I find that?</p> <p>6 A. Phillip should have it.</p> <p>7 Q. Which document (indiscernible) --</p> <p>8 MR. RAKHUNOV: Sorry. You just cut</p> <p>9 out.</p> <p>10 BY MR. SPERBER:</p> <p>11 Q. Which documents could I look at to</p> <p>12 figure that out?</p> <p>13 MR. RAKHUNOV: Sorry, Alex. Can you</p> <p>14 go back to your underlying question?</p> <p>15 MR. SPERBER: Yeah.</p> <p>16 BY MR. SPERBER:</p> <p>17 Q. My question is if I want to figure</p> <p>18 out how much Ascension paid Rock Fintek</p> <p>19 pursuant to the purchase order ending in 0075</p> <p>20 with a date of December 7, 2020, how would I go</p> <p>21 about doing that?</p> <p>22 A. Are you asking me or Phillip?</p> <p>23 Q. I'm asking you, Mr. Kato.</p> <p>24 MR. RAKHUNOV: I'm not --</p> <p>25 THE WITNESS: I think -- can you</p>
<p style="text-align: right;">Page 186</p> <p>1 Q. Okay. And what did Rock Fintek do</p> <p>2 with those gloves?</p> <p>3 A. Delivered them all to Medline.</p> <p>4 Q. Okay. Did Rock Fintek fulfill all</p> <p>5 three of the purchase orders that it received</p> <p>6 from Ascension?</p> <p>7 A. I don't believe it filled the first</p> <p>8 two. Actually, we ended up delivering more</p> <p>9 than the quantity that they wanted.</p> <p>10 Q. Okay. So you delivered more than</p> <p>11 200 million gloves to Ascension?</p> <p>12 A. Yes.</p> <p>13 Q. Okay.</p> <p>14 A. Because of the miscount.</p> <p>15 Q. Did Ascension pay Rock Fintek the</p> <p>16 full price for each of the purchase orders?</p> <p>17 A. No.</p> <p>18 Q. Okay. Which -- which of the</p> <p>19 purchase orders did it not fully pay for?</p> <p>20 A. The last one was not fully paid for.</p> <p>21 The first one was not fully filled because they</p> <p>22 wanted to make a larger order while they were</p> <p>23 still being delivered.</p> <p>24 Q. Okay. So this last purchase order,</p> <p>25 how much did -- how much of the purchase price</p>	<p style="text-align: right;">Page 188</p> <p>1 repeat the question, please?</p> <p>2 BY MR. SPERBER:</p> <p>3 Q. Yeah. I want to figure out how much</p> <p>4 money Ascension paid Rock Fintek pursuant to</p> <p>5 purchase order ending 0075 with the date of</p> <p>6 December 7, 2020.</p> <p>7 How would I go about figuring that</p> <p>8 out?</p> <p>9 A. I believe you can look at the bank</p> <p>10 statements that came in, the funds that came</p> <p>11 from Ascension.</p> <p>12 Q. How would I distinguish those funds</p> <p>13 from other funds that Ascension paid to</p> <p>14 Rock Fintek?</p> <p>15 A. Anything done December and on was</p> <p>16 only for this order.</p> <p>17 Q. Okay.</p> <p>18 A. Is there a third lawyer here, Lauren</p> <p>19 Riddle?</p> <p>20 MS. RIDDLE: Yeah. That's me,</p> <p>21 Thomas.</p> <p>22 THE WITNESS: Oh, okay.</p> <p>23 BY MR. SPERBER:</p> <p>24 Q. How large of a deposit did -- did</p> <p>25 Ascension give to Rock Fintek in connection</p>

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<p style="text-align: right;">Page 189</p> <p>1 with the purchase order in front of you?</p> <p>2 A. Let's see. Shows 2.75 million here,</p> <p>3 and it says -- I don't know. It's hard for me</p> <p>4 to read this document. I don't understand.</p> <p>5 Q. Did Ascension give you a deposit in</p> <p>6 connection with this purchase order?</p> <p>7 A. Yes, they did.</p> <p>8 Q. Okay. At the time that Ascension</p> <p>9 gave you this purchase order, did Rock Fintek</p> <p>10 have suppliers lined up to provide the gloves</p> <p>11 it was going to be selling to Ascension?</p> <p>12 A. Yes.</p> <p>13 Q. Who were those -- who were those</p> <p>14 suppliers?</p> <p>15 A. SkyMed.</p> <p>16 Q. I'm sorry?</p> <p>17 A. SkyMed.</p> <p>18 Q. Okay. Anyone else?</p> <p>19 A. No.</p> <p>20 Q. Okay. Did Ascension ultimately use</p> <p>21 SkyMed to fulfill this purchase order?</p> <p>22 A. Rock Fintek did not ultimately use</p> <p>23 SkyMed to fill the order, no.</p> <p>24 Q. Why not?</p> <p>25 A. SkyMed ended up being a fraudulent</p>	<p style="text-align: right;">Page 191</p> <p>1 documentation about -- concerning the products</p> <p>2 it was providing to Ascension?</p> <p>3 A. Yeah. It provided that, you know,</p> <p>4 D6319 510(k) ASTM gloves.</p> <p>5 Q. What I'm asking is did you keep a</p> <p>6 ledger, for example, that would document how</p> <p>7 many gloves you provided to Ascension and where</p> <p>8 you got them from?</p> <p>9 A. We used more of the logistics</p> <p>10 company they gave us or supported and</p> <p>11 delivered, thought that to be accurate.</p> <p>12 (Stenographer requests</p> <p>13 clarification.)</p> <p>14 BY MR. SPERBER:</p> <p>15 Q. What was that?</p> <p>16 A. We used what the logistics company</p> <p>17 gave us for what was delivered, and we thought</p> <p>18 that to be accurate.</p> <p>19 Q. And was it accurate?</p> <p>20 A. No.</p> <p>21 Q. Was that logistics company Dimerco?</p> <p>22 A. That was Dimerco.</p> <p>23 Q. Your contact over there was Alex</p> <p>24 King?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 190</p> <p>1 company that didn't have any gloves.</p> <p>2 Q. Okay. So what did Rock Fintek do</p> <p>3 instead?</p> <p>4 A. It looked to source other gloves.</p> <p>5 Q. And where did it source gloves from?</p> <p>6 A. Adorama, Kitchen Winners,</p> <p>7 Joel Stern, JNS, a container or two from this</p> <p>8 gentleman in Miami, Avi. Maybe -- that might</p> <p>9 be it.</p> <p>10 Q. The gloves that Rock Fintek used to</p> <p>11 fulfill this purchase order, were they all</p> <p>12 MedCare gloves?</p> <p>13 A. Yes.</p> <p>14 Q. Okay.</p> <p>15 A. No. We gave some LevMed gloves</p> <p>16 also.</p> <p>17 Q. Okay.</p> <p>18 A. And I believe everything else was</p> <p>19 MedCare. We might have gave some Safeko or</p> <p>20 Ingco gloves also. I don't know if that was</p> <p>21 before this purchase or after this purchase</p> <p>22 agreement.</p> <p>23 Q. How would I figure that out?</p> <p>24 A. I'm not sure. I'd have to . . .</p> <p>25 Q. Did Rock Fintek maintain</p>	<p style="text-align: right;">Page 192</p> <p>1 Q. How did you figure out that</p> <p>2 Dimerco's records were not accurate?</p> <p>3 A. When Ascension did a count and told</p> <p>4 us we delivered more gloves than they had</p> <p>5 wanted and they weren't willing to pay for</p> <p>6 them.</p> <p>7 Q. Let me back up a little bit. You're</p> <p>8 familiar with a company by the name of Adorama?</p> <p>9 A. I am now, yes.</p> <p>10 Q. Are you familiar with the name</p> <p>11 Kitchen Winners NY Inc.?</p> <p>12 A. Yes.</p> <p>13 Q. How did you first become familiar</p> <p>14 with those two companies?</p> <p>15 A. I believe I saw the name</p> <p>16 Kitchen Winners on a purchase order that I got</p> <p>17 from Miss Lee or Joel Stern. Then I tried to</p> <p>18 find them because the price we were paying for</p> <p>19 the gloves was more than we were selling them</p> <p>20 for, but I wanted just to at least keep</p> <p>21 delivering gloves.</p> <p>22 So, in the meantime, I was trying to</p> <p>23 find more of the source to the MedCare gloves.</p> <p>24 Q. So you (indiscernible)?</p> <p>25 (Stenographer requests</p>

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<p style="text-align: right;">Page 193</p> <p>1 clarification.)</p> <p>2 BY MR. SPERBER:</p> <p>3 Q. So you reached out to</p> <p>4 Kitchen Winners?</p> <p>5 A. Yes.</p> <p>6 Q. Who at Kitchen Winners did you speak</p> <p>7 with?</p> <p>8 A. Mendel Banon.</p> <p>9 Q. How did you find Mr. Banon's name?</p> <p>10 A. He was on a purchase -- oh, I just</p> <p>11 looked up the company.</p> <p>12 Q. Online?</p> <p>13 A. Yeah, a simple Google Search.</p> <p>14 Q. So you reached out to Mr. Banon, and</p> <p>15 what did you discuss with him?</p> <p>16 A. Told him I had purchased these</p> <p>17 gloves already. At the price I was buying</p> <p>18 them, I wouldn't continue -- I wouldn't be able</p> <p>19 to continue to buy them at a loss delivering to</p> <p>20 my clients. "I can buy larger quantities if</p> <p>21 you can get me a better pricing."</p> <p>22 Q. And what did Mr. Banon tell you?</p> <p>23 A. "We can slowly do that."</p> <p>24 So I kept -- so I started -- began</p> <p>25 purchasing from him at a loss still. But at a</p>	<p style="text-align: right;">Page 195</p> <p>1 A. Correct.</p> <p>2 Q. Who was on those phone calls when</p> <p>3 you had them?</p> <p>4 A. Multiple people. Sometimes</p> <p>5 Mendlowitz and sometimes Mendel Banon.</p> <p>6 Sometimes Joel -- no, I don't think Joel Stern</p> <p>7 was on there. Brad Gilling for sure.</p> <p>8 Various people that were involved in</p> <p>9 whatever transactions. Arik Maimon.</p> <p>10 Q. Is that Arik Maimon?</p> <p>11 A. Maimon. Maimon, yeah.</p> <p>12 (Stenographer requests</p> <p>13 clarification.)</p> <p>14 BY MR. SPERBER:</p> <p>15 Q. You mentioned Mendlowitz. Is that</p> <p>16 Joseph Mendlowitz?</p> <p>17 A. Yes.</p> <p>18 Q. Who is that?</p> <p>19 A. I believe he's the owner of Adorama.</p> <p>20 Q. Okay. Have you ever spoken with</p> <p>21 him?</p> <p>22 A. Couple times.</p> <p>23 Q. Have you ever met him?</p> <p>24 A. No.</p> <p>25 Q. Have you ever emailed him?</p>
<p style="text-align: right;">Page 194</p> <p>1 less of a loss.</p> <p>2 Q. Okay. Did there come a point in</p> <p>3 time when you entered into a contract with</p> <p>4 Kitchen Winners?</p> <p>5 A. I don't know if we ever had any</p> <p>6 contract or just purchase agreements. I don't</p> <p>7 recollect.</p> <p>8 Q. Okay. How about a company by the</p> <p>9 name Adorama? How did you first become aware</p> <p>10 of them?</p> <p>11 A. From Mendel Banon.</p> <p>12 Q. What did Mr. Banon tell you?</p> <p>13 A. He said that he's their partner,</p> <p>14 works with them in distribution. They were in</p> <p>15 charge of manufacturing or procuring.</p> <p>16 Q. Are you familiar with someone by the</p> <p>17 name of Hershey Weiner?</p> <p>18 A. Yes, I am.</p> <p>19 Q. Okay. Have you ever met Mr. Weiner?</p> <p>20 A. No.</p> <p>21 Q. Have you ever spoken with him?</p> <p>22 A. Yes.</p> <p>23 Q. How many times?</p> <p>24 A. Several.</p> <p>25 Q. That was by telephone?</p>	<p style="text-align: right;">Page 196</p> <p>1 A. I believe he's on emails that I'm</p> <p>2 on, in the communication with some of them.</p> <p>3 Q. Did he ever email you?</p> <p>4 A. I don't recollect.</p> <p>5 Q. Did he ever text you?</p> <p>6 A. No.</p> <p>7 Q. Did he ever WhatsApp with you?</p> <p>8 A. I don't believe so.</p> <p>9 Q. Did he ever send emails to anyone</p> <p>10 else at Rock Fintek?</p> <p>11 A. No, I don't believe so.</p> <p>12 Q. Did he ever text anyone else at</p> <p>13 Rock Fintek?</p> <p>14 A. I don't believe so.</p> <p>15 Q. Did he ever -- was he ever involved</p> <p>16 with WhatsApp communications with anyone else</p> <p>17 at Rock Fintek?</p> <p>18 A. I don't believe so. He might have</p> <p>19 been. I don't recollect, but I don't believe</p> <p>20 so.</p> <p>21 Q. You mentioned that you were on</p> <p>22 some -- some phone calls with him. What did he</p> <p>23 say on those phone calls, if anything?</p> <p>24 A. We were going to purchase -- make a</p> <p>25 large purchase order with Adorama that had to</p>

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<p style="text-align: right;">Page 197</p> <p>1 be directly with him at Adorama, their bank 2 account, their attorneys, and not via 3 Kitchen Winners, even though we were looking at 4 them as one and the same. It was with Adorama. 5 I said, "We just got stung by a 6 company in Thailand who ended up being bogus. 7 So if we do a deal, we want to do a deal with a 8 company that's credible and can back the 9 product they're giving us." 10 Q. Why did you believe Adorama was that 11 kind of a company? 12 A. Did some research online. They 13 seemed to be a legitimate large company, been 14 around since the '70s, at the first impression 15 when you look. 16 Q. I thought you had said you reached 17 out to Kitchen Winners originally. How did 18 Adorama get involved with this? 19 A. I told you Mendel Banon introduced 20 us. 21 Q. You were willing to do business with 22 Kitchen Winners; correct? 23 A. Kitchen Winners -- I was willing to 24 do business with Kitchen Winners on a 25 truck-by-truck basis. To do a large purchase</p>	<p style="text-align: right;">Page 199</p> <p>1 BY MR. SPERBER: 2 Q. Who owns Kitchen Winners? 3 A. I'm not sure the legal entity it was 4 owned by. 5 Q. What is Mendel Banon's relationship 6 with Kitchen Winners? 7 A. I believe he's a director, employee, 8 member of the entity. 9 Q. Okay. What is Mendel Banon's 10 relationship with Adorama? 11 A. Partner, salesperson, employee. I'm 12 not exactly sure. 13 Q. What are you basing that on? 14 A. Well, he said he was distribution 15 and they were procurement. Sounds like 16 partners. 17 Q. Okay. 18 A. He said he gets all his products 19 from them. He works exclusively with them. 20 Q. Besides Joseph Mendlowitz, did you 21 ever speak with anyone else at Adorama? 22 MR. RAKHUNOV: Objection. 23 THE WITNESS: I don't believe so, 24 but if I did, it should be in my WhatsApp 25 or emails.</p>
<p style="text-align: right;">Page 198</p> <p>1 order, I was not going to send Kitchen Winners 2 any large amounts of money. 3 Q. Okay. At any point in time -- 4 A. Mendel Banon had a record of a 5 default and a judgment from a bank or a default 6 from a bank for one and a half million that he 7 was still trying to -- I don't know what was 8 going on with it. So I was like, "I will not 9 send you any large number" -- "amounts of 10 funds." 11 Q. At any point in time did -- during 12 the relationship between Rock Fintek, 13 Kitchen Winners, and Adorama, did -- did 14 Rock Fintek give a large prepayment in advance 15 of receiving goods? 16 A. Did we give a large -- did 17 Rock Fintek give a large prepayment for goods? 18 Q. Yeah. 19 A. Yes, to Adorama. 20 Q. What was the date of that? 21 A. I don't know. I don't recollect. 22 Q. Who owns Kitchen Winners? 23 A. Who what? 24 MR. RAKHUNOV: Objection. 25 ///</p>	<p style="text-align: right;">Page 200</p> <p>1 BY MR. SPERBER: 2 Q. Okay. How about, you know, 3 anyone -- did you ever communicate with anyone 4 else at Adorama? 5 A. No, I don't believe so. 6 Q. Did Mendlowitz ever tell you 7 anything about Adorama's relationship with 8 Banon? 9 A. Besides on the phone call that time, 10 saying that they were working together or he's 11 going to get the gloves and he's distributing 12 them? No. 13 Q. Okay. 14 A. I just made it really clear to him 15 that I won't send money if it wasn't to him and 16 his company that's been around since the '70s. 17 Q. Was Arik Maimon on that phone call? 18 A. He was on some phone calls. Not all 19 the phone calls. 20 Q. Who is Arik Maimon? What's his 21 relationship to this transaction? 22 A. Another broker. 23 Q. Who hired him? 24 A. I don't know. That's hard to say. 25 He would have made a commission from us, but he</p>

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<p style="text-align: right;">Page 201</p> <p>1 got paid, from what he told me, 200,000 from</p> <p>2 Adorama as a loan for something else from a</p> <p>3 company that he didn't seem to know before. So</p> <p>4 to me looked like he had a prepayment.</p> <p>5 Q. Was Arik Maimon on the phone calls</p> <p>6 with Joseph Mendlowitz?</p> <p>7 A. I don't recall. He was on a lot of</p> <p>8 phone calls. I don't know which ones he was</p> <p>9 on.</p> <p>10 Q. Okay. I'm going to show you a</p> <p>11 document that was previously marked by</p> <p>12 Mr. Frisch.</p> <p>13 A. By who?</p> <p>14 Q. Avi Frisch, the attorney who was</p> <p>15 speaking to you earlier.</p> <p>16 Can you see in front of you a</p> <p>17 document that was marked Exhibit -- JNS</p> <p>18 Exhibit E?</p> <p>19 A. Yes.</p> <p>20 Q. This, I believe, was the First</p> <p>21 Amended Counterclaim and Third-Party Complaint</p> <p>22 that Rock Fintek filed.</p> <p>23 A. I'm looking at page 1.</p> <p>24 Q. Okay. If you can go to page 5.</p> <p>25 A. Okay.</p>	<p style="text-align: right;">Page 203</p> <p>1 Do you see where I am?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. What information do you have</p> <p>4 to support that assertion?</p> <p>5 A. I don't know what that means.</p> <p>6 Q. Okay. It goes on to say, "Adorama</p> <p>7 and its principles dominate and control</p> <p>8 Kitchen Winners for the purposes of engaging</p> <p>9 fraudulent PPE transactions."</p> <p>10 Do you see where I am over there?</p> <p>11 A. Yes.</p> <p>12 Q. What information do you have to</p> <p>13 support that assertion?</p> <p>14 A. "Adorama and its principals dominate</p> <p>15 and control" --</p> <p>16 MR. RAKHUNOV: Note my objection.</p> <p>17 THE WITNESS: I don't understand the</p> <p>18 language written here.</p> <p>19 BY MR. SPERBER:</p> <p>20 Q. Do you have any information to</p> <p>21 support the idea that Adorama is in control of</p> <p>22 Kitchen Winners?</p> <p>23 A. Yes.</p> <p>24 Q. What information do you have?</p> <p>25 A. Joseph was Mendel's boss.</p>
<p style="text-align: right;">Page 202</p> <p>1 Q. Go to page 6. Look at paragraph 19.</p> <p>2 It says, "Kitchen Winners is an affiliate of</p> <p>3 Adorama that Adorama formed, upon information</p> <p>4 and belief, for the purpose of engaging in the</p> <p>5 PPE business and shielding Adorama from</p> <p>6 liability for fraudulent PPE transactions."</p> <p>7 Do you see where I am?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. What information do you have</p> <p>10 to support the allegations in that paragraph?</p> <p>11 A. Well, he told me they were partners.</p> <p>12 Q. Does that mean that Adorama formed</p> <p>13 Kitchen Winners?</p> <p>14 A. I don't know the legal way that they</p> <p>15 were formed. You can ask that question to the</p> <p>16 lawyer, this legality. I just know he said</p> <p>17 they were partners, and that's how we took it.</p> <p>18 They're one and the same.</p> <p>19 Q. So you have no -- no information to</p> <p>20 support the idea that Adorama actually formed</p> <p>21 Kitchen Winners?</p> <p>22 A. I do not, no.</p> <p>23 Q. Okay. If you go to paragraph 20, it</p> <p>24 says, "Kitchen Winners is an alter ego of</p> <p>25 Adorama."</p>	<p style="text-align: right;">Page 204</p> <p>1 Q. Anything else?</p> <p>2 A. He had to make all the decisions for</p> <p>3 them. Him and Hershey had to run everything by</p> <p>4 Joseph. Nothing was done unless Joseph agreed.</p> <p>5 They were not making any decisions on their</p> <p>6 own.</p> <p>7 Q. What are you basing that on?</p> <p>8 A. Conversations, messages, "I'll get</p> <p>9 back to you."</p> <p>10 They had no authority to do anything</p> <p>11 without his authorization.</p> <p>12 Q. When someone says, "I'll get back to</p> <p>13 you," does that mean they don't have authority,</p> <p>14 or could it just mean that they want to</p> <p>15 consider it?</p> <p>16 A. They said, "Let me see if I can get</p> <p>17 this approved."</p> <p>18 Q. Okay. Do you know who they would</p> <p>19 have asked?</p> <p>20 A. Joseph.</p> <p>21 Q. How do you know?</p> <p>22 A. They said it.</p> <p>23 Q. Is there any documentation of this</p> <p>24 anywhere?</p> <p>25 A. My lawyer has all the text messages.</p>

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<p>Page 205</p> <p>1 Might be in there somewhere or --</p> <p>2 Q. Okay.</p> <p>3 A. -- multiple times. Should be</p> <p>4 somewhere provided.</p> <p>5 Q. But you can't recall where?</p> <p>6 A. No, I can't recall where in hundreds</p> <p>7 of pages of messages.</p> <p>8 Q. So we should just believe you, this</p> <p>9 is what happened?</p> <p>10 MR. RAKHUNOV: Objection.</p> <p>11 THE WITNESS: That's exactly what</p> <p>12 happened.</p> <p>13 BY MR. SPERBER:</p> <p>14 Q. I'm sorry?</p> <p>15 A. Yes. That's exactly what happened.</p> <p>16 Q. Okay. It says in paragraph 20,</p> <p>17 "Adorama and Kitchen Winners commingled funds."</p> <p>18 What information do you have to</p> <p>19 support that assertion?</p> <p>20 A. I don't know the legal terms of your</p> <p>21 commingling.</p> <p>22 Q. Do they share bank accounts?</p> <p>23 A. They might. I send money to</p> <p>24 Adorama. If they have a shared account, then</p> <p>25 maybe they have it. I don't know.</p>	<p>Page 207</p> <p>1 Okay.</p> <p>2 Q. In what way did Mendlowitz provide</p> <p>3 Rock Fintek with the document referenced in</p> <p>4 paragraph 22 of the counterclaim?</p> <p>5 A. You mean did he hand-deliver it,</p> <p>6 email it?</p> <p>7 Q. Yeah.</p> <p>8 A. I don't recollect.</p> <p>9 Q. I think you mentioned earlier that</p> <p>10 you didn't communicate with him -- he never</p> <p>11 emailed you directly; correct?</p> <p>12 A. Joseph Mendlowitz?</p> <p>13 Q. Yeah.</p> <p>14 A. I don't believe so, but if you check</p> <p>15 whatever we submitted, all the emails, if it's</p> <p>16 on there, then he did. But I don't recollect</p> <p>17 him doing that.</p> <p>18 Q. So how did he provide this document</p> <p>19 to you?</p> <p>20 MR. RAKHUNOV: Objection.</p> <p>21 THE WITNESS: I don't know. It's</p> <p>22 more legal terms. I don't understand it.</p> <p>23 BY MR. SPERBER:</p> <p>24 Q. So you don't know?</p> <p>25 A. (Reviewing document.)</p>
<p>Page 206</p> <p>1 Q. So you don't know?</p> <p>2 A. If they have an account with each</p> <p>3 other, I'm not aware.</p> <p>4 Q. Do Adorama and Kitchen Winners have</p> <p>5 the same officers?</p> <p>6 A. I'm not aware of the officers of</p> <p>7 either company.</p> <p>8 Q. Do they have the same directors?</p> <p>9 A. I'm not aware of the directors of</p> <p>10 either company.</p> <p>11 Q. Do they share office space?</p> <p>12 A. Yes. He was in the Adorama office</p> <p>13 all the time, him and Hershey Weiner.</p> <p>14 Q. Does that mean that have -- that</p> <p>15 they don't have separate offices?</p> <p>16 A. They said that's where they worked</p> <p>17 out of. That's where they worked. It was one</p> <p>18 and the same.</p> <p>19 Q. Take a look at --</p> <p>20 A. Multiple calls or all the calls</p> <p>21 originated from that office.</p> <p>22 Q. Take a look at paragraph 22. Read</p> <p>23 it to yourself.</p> <p>24 A. Okay.</p> <p>25 (Reviewing document.)</p>	<p>Page 208</p> <p>1 I mean, this is a bunch of legal</p> <p>2 mumbo-jumbo for me. So I don't -- I don't</p> <p>3 know. If you ask me a clear question, I'll</p> <p>4 answer it.</p> <p>5 Q. Did Mendlowitz provide a document to</p> <p>6 Rock Fintek which said that Kitchen Winners is</p> <p>7 authorized to act on Adorama's behalf to</p> <p>8 procure nitrile gloves?</p> <p>9 A. I believe we may have a document</p> <p>10 that came from him or saying that.</p> <p>11 Q. Did he -- again, did he give you a</p> <p>12 document that said that?</p> <p>13 A. I don't know what email it came</p> <p>14 from, it came from him or it came from who.</p> <p>15 Maybe it did come from him. Maybe I was cc'd</p> <p>16 on it. Maybe he was cc'd on it and Mendel sent</p> <p>17 it on his behalf or he sent it. I'm not sure.</p> <p>18 I don't recollect. It was two years ago.</p> <p>19 I looked at the whole case yesterday</p> <p>20 and a bunch of documents. That's not one of</p> <p>21 the documents I saw.</p> <p>22 Q. This is Rock Fintek's complaint;</p> <p>23 correct?</p> <p>24 A. I saw the complaint. I didn't see</p> <p>25 that email.</p>

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<p>Page 209</p> <p>1 Q. Is it -- this allegation in 2 paragraph 22, is it true? 3 MR. RAKHUNOV: Objection. 4 THE WITNESS: If we put it there, 5 it's true. It's a fact. 6 BY MR. SPERBER: 7 Q. So I'm asking you for the -- to 8 explain to me. 9 A. And it's a fact. 10 Q. So how did -- how did Mendlowitz 11 provide you the document? 12 A. I answered already. I don't 13 recollect. 14 Q. Well, to the extent that any 15 document exists showing how Mendlowitz provided 16 the document referenced in paragraph 22, I'm 17 calling for its production if it's not in the 18 existing production from Rock Fintek. 19 MR. RAKHUNOV: It's in there. 20 BY MR. SPERBER: 21 Q. Did Rock Fintek ever tell 22 Kitchen Winners who its customer was? 23 A. No. 24 Q. Did Rock Fintek ever tell -- 25 A. Well, after -- at the end, after all</p>	<p>Page 211</p> <p>1 everybody. 2 Q. So you would have emailed Joseph 3 Mendlowitz? 4 MR. RAKHUNOV: Objection. I don't 5 understand the question. 6 BY MR. SPERBER: 7 Q. Did Rock Fintek ever notify 8 Mr. Mendlowitz that it was claiming that he had 9 breached some sort of a warranty that he 10 provided to Rock Fintek? 11 A. Yes. 12 Q. Okay. When was that? 13 A. Adorama knew in July, July or 14 August. 15 Q. Again -- 16 A. We called him, emailed them, to 17 return the gloves. 18 Q. So there's an email out there from 19 Rock Fintek to Mr. Mendlowitz? 20 A. There's an email out there to 21 Adorama and to Kitchen Winners and everyone in 22 the conversation that we want to return these 23 products. They are not what we asked for. 24 Q. Okay. Well, I'm calling for the 25 production of that email.</p>
<p>Page 210</p> <p>1 the problems we had, yes. 2 Q. But before that, it did not? 3 A. No. No. 4 Q. Did Rock Fintek ever tell Adorama 5 who Rock Fintek's customer was? 6 A. Did -- say that one more time. 7 Q. Did Rock Fintek ever tell Adorama 8 who Rock Fintek's customer was? 9 MR. RAKHUNOV: Objection. 10 THE WITNESS: Not in the beginning, 11 until we had the problems. 12 BY MR. SPERBER: 13 Q. Okay. At the end when you started 14 to have problems, did -- did Rock Fintek ever 15 provide any kind of notice of breach to 16 Adorama? 17 A. We might have emailed them. We 18 definitely called and told them. 19 Q. What date did you call and tell them 20 on? 21 A. July, when we got notification from 22 the hospital. 23 Q. Did -- did Rock Fintek ever provide 24 notice of breach to Joseph Mendlowitz? 25 A. Yeah. It would have been to</p>	<p>Page 212</p> <p>1 MR. RAKHUNOV: I think it's an email 2 from your client to Joseph Mendlowitz, but, 3 you know, you know that better than I do. 4 MR. SPERBER: Again, your client 5 just testified that Rock Fintek sent an 6 email. So I'm calling for its production. 7 THE WITNESS: I said we called or 8 sent an email, one or the other. I don't 9 recollect what we did two years ago exactly 10 to communicate it. 11 BY MR. SPERBER: 12 Q. And you can't recall the date? 13 A. It would be after I was contacted 14 from Ascension Health. 15 Q. If it was a phone call, who would 16 have been on that phone call besides yourself? 17 A. God could have been on the phone 18 call. I don't know who could have been on the 19 phone call. I don't remember. If I knew, then 20 I'd tell you specifically. 21 Q. Okay. 22 A. Only -- most phone calls was Brad 23 Gilling and I. 24 Q. How many boxes of MedCare gloves did 25 Rock Fintek purchase in total?</p>

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<p>Page 213</p> <p>1 A. I think we had over 200 million 2 gloves. I don't know how you count it into 3 boxes. Maybe it's 2 million boxes plus or 2 4 million cartons, million cartons. I'm not 5 sure. We were always going by glove count 6 mostly. Around, like, 1.9 million.</p> <p>7 Q. Explain to me how the relationship 8 between Rock Fintek and Kitchen Winners or 9 Adorama worked; meaning, how did Rock Fintek 10 get the gloves from either Adorama or 11 Kitchen Winners or both?</p> <p>12 A. I would wire them money. We would 13 wire them funds, and then they would start the 14 delivery of a shipment of gloves.</p> <p>15 Q. How did delivery of a shipment work?</p> <p>16 A. They were delivered to Medline. 17 When Medline received them, they in turn gave 18 them to Ascension. Ascension paid us, and we 19 paid them again for another shipment.</p> <p>20 Q. So you're saying that 21 Kitchen Winners and/or Adorama would send the 22 gloves to Medline?</p> <p>23 A. All the gloves were delivered to 24 Medline.</p> <p>25 Q. It was my understanding -- maybe I'm</p>	<p>Page 215</p> <p>1 exactly.</p> <p>2 Q. Who was in charge?</p> <p>3 A. Brad Gilling did a lot of the 4 shipping, and -- I would say Brad Gilling and 5 Dimerco. And who else did shipping? That's 6 it. And then -- then Mendel Banon or 7 Hershey Weiner. I don't know. I don't know 8 who -- I don't think Hershey was in charge of 9 shipping.</p> <p>10 Q. You were not prepared to testify 11 today about the shipping between -- 12 (Simultaneous speaking.) 13 CERTIFIED STENOGRAPHER: Excuse me. 14 You guys were talking at the same time. 15 "Shipping between" . . . 16 MR. RAKHUNOV: Let him finish the 17 question. 18 BY MR. SPERBER: 19 Q. Kitchen Winners on the one hand and 20 Ascension on the other. 21 A. I'm prepared to testify telling you 22 that the shipments were done between either 23 Dimerco or Adorama only. 24 Q. Yeah, but I want to know which 25 ones -- you know, how --</p>
<p>Page 214</p> <p>1 wrong here -- that Dimerco arranged for 2 truckers to pick the gloves up from -- from the 3 warehouse where Kitchen Winners and/or Adorama 4 were housing them.</p> <p>5 Is that not correct?</p> <p>6 A. Dimerco did some, and they delivered 7 some directly themselves because they said they 8 can do it cheaper.</p> <p>9 Q. Okay. How many times did 10 Kitchen Winners and/or Adorama deliver the 11 gloves directly to Medline?</p> <p>12 A. I don't recollect the exact amount.</p> <p>13 Q. Which shipments did Kitchen Winners 14 and/or Adorama directly deliver to Medline?</p> <p>15 A. All the shipments. Either they 16 delivered directly or Dimerco delivered, one or 17 the other.</p> <p>18 Q. Right. So which ones did they 19 deliver themselves, not through Dimerco?</p> <p>20 A. I don't know. We'd have to check 21 what was delivered to Medline, what dates and 22 who, go through the messages and emails.</p> <p>23 Q. Where would I get this?</p> <p>24 A. I wasn't in charge of shipping. So 25 I don't know who delivered what and when</p>	<p>Page 216</p> <p>1 A. I don't know specifically out of 2 the -- I don't know how -- how many shipments 3 was each one.</p> <p>4 Q. Do you have invoices from Dimerco?</p> <p>5 A. Yes, we do.</p> <p>6 Q. Do you have invoices from the 7 shippers?</p> <p>8 A. Yes.</p> <p>9 Q. Have they been produced? 10 MR. RAKHUNOV: Objection. 11 THE WITNESS: Ask my lawyer that. 12 BY MR. SPERBER: 13 Q. Okay. Well, I'm going to call for 14 the production of all shipping invoices. 15 How much money did Rock Fintek spend 16 on shipping? 17 A. We were supposed to get invoices 18 from Hershey Weiner. He refused to give them 19 to us; so I don't have those invoices. I can 20 -- I'm sure Phillip could get Dimerco's 21 invoices. 22 Because Hershey was supposed to be 23 getting them cheaper than we were shipping 24 them, and we were supposed to be saving money 25 there; hence, that never happened, and I never</p>

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<p style="text-align: right;">Page 217</p> <p>1 got a copy of one invoice from any of his 2 shipments that he had delivered. 3 Q. Yeah, but out of pocket, how much 4 money did Rock Fintek spend on shipping? 5 A. I'd say approximately, if I were to 6 have a good guess, 6 to 7 million. 7 MR. RAKHUNOV: Pretty good guess. 8 MR. SPERBER: Sorry? 9 MR. RAKHUNOV: I said that's a 10 pretty good guess. 11 MR. SPERBER: Again, we're calling 12 for the production of every invoice that 13 documents those -- those numbers. 14 THE WITNESS: Then your client 15 Hershey Weiner should give us the other 16 invoices because he never gave them to us, 17 and we still don't have them. And I've 18 asked them for them multiple times. 19 MR. RAKHUNOV: Yeah, your -- Tommy, 20 that's fine. Yeah, Counsel, your request 21 is noted. I mean, I think we can talk 22 about it later. I'm pretty sure you have 23 that information, but we can -- we can talk 24 about it. 25 MR. SPERBER: Okay.</p>	<p style="text-align: right;">Page 219</p> <p>1 People were not allowed to really 2 meet with each other. Drivers were not allowed 3 to go inside Medline and possibly contaminate 4 or kill somebody if they had COVID, with the 5 infection of COVID disease. So they were -- 6 Q. So these are laws? 7 A. I don't know if there were laws. 8 You're the lawyer. You would know if there's 9 laws. 10 Q. I'm trying to understand. 11 A. I'm telling -- I answered your 12 question. I gave you a fact. You want to ask 13 it ten more times, go ahead. 14 They were not allowed to see the 15 product, period. I told you because of COVID. 16 If you want to look into it, research it. 17 Q. Was it keeping them from pulling the 18 truck over to the side of the road, going in 19 the back and looking at what they had? 20 A. That would be illegal. 21 Q. Under what law? 22 A. I'm not sure what law, but they told 23 me they were not allowed to do that. 24 Q. Okay. 25 A. They were sealed by the loading</p>
<p style="text-align: right;">Page 218</p> <p>1 BY MR. SPERBER: 2 Q. I think you testified earlier that 3 Dimerco was not able to examine the shipment it 4 was picking up; is that correct? 5 A. That's correct. 6 Q. What prevented it from doing that? 7 A. COVID. 8 Q. Okay. So if it weren't for COVID, 9 they would have allowed to look at -- you know, 10 open up the boxes and see what was inside? 11 A. Correct. 12 Q. Okay. What about COVID stopped 13 them? 14 A. They were not allowed to exit their 15 vehicles even when they were being unloaded or 16 loaded, the drivers. 17 Q. Not allowed by what? 18 A. What? 19 Q. Not allowed by what? 20 A. Because of COVID protocols. 21 Q. Which protocols? 22 A. Whatever COVID protocol that doesn't 23 allow other people to come in contact with each 24 other. You can look up what happened during 25 COVID if you don't remember.</p>	<p style="text-align: right;">Page 220</p> <p>1 warehouse, and they were unsealed when they got 2 there. So . . . 3 Q. Okay. 4 A. You're trying to talk about a 5 trucker. I don't know what the rules are for 6 truckers opening shipments that they have in 7 the back or not. 8 Q. When the gloves arrived at the 9 Medline warehouse, was someone there looking at 10 the gloves? 11 A. I don't know what Medline did when 12 they got the gloves. 13 Q. Was someone there counting the 14 gloves that were received? 15 A. I don't know what Medline did when 16 they received the gloves. You can ask Medline. 17 Q. Was there a time when Adorama or 18 Kitchen Winners, or both, delivered to 19 Rock Fintek LevMed gloves instead of MedCare 20 gloves? 21 A. Did they deliver LevMed instead of 22 MedCare? Is that what you said? 23 Q. Yes. 24 A. Yes, they did. 25 Q. How Rock Fintek learn that the</p>

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<p style="text-align: right;">Page 221</p> <p>1 gloves were LevMed and not MedCare?</p> <p>2 A. I believe within some weeks later,</p> <p>3 we got notified with photos of these LevMed</p> <p>4 gloves.</p> <p>5 Q. Notified by whom?</p> <p>6 A. From Ascension.</p> <p>7 Q. So, presumably, someone at Ascension</p> <p>8 was looking at the gloves that were coming in;</p> <p>9 correct?</p> <p>10 A. They must have -- Medline must have</p> <p>11 sent them to Ascension, and that's what</p> <p>12 happened.</p> <p>13 Q. So, again, someone was looking at</p> <p>14 the gloves; right?</p> <p>15 A. Well, Medline counted the cartons</p> <p>16 that were arrived and delivered. They don't</p> <p>17 open up the boxes of the gloves and open up the</p> <p>18 glove.</p> <p>19 Q. Can you tell by looking at the</p> <p>20 outside of the carton what kind of gloves are</p> <p>21 inside it?</p> <p>22 A. The carton? Yeah. It said "LevMed"</p> <p>23 on the box or it says "MedCare," I believe.</p> <p>24 Q. Let me back up just to define my</p> <p>25 terms here.</p>	<p style="text-align: right;">Page 223</p> <p>1 MR. RAKHUNOV: Objection.</p> <p>2 THE WITNESS: I don't recollect</p> <p>3 that.</p> <p>4 BY MR. SPERBER:</p> <p>5 Q. Okay. How many LevMed gloves did</p> <p>6 Adorama and/or Kitchen Winners provide to</p> <p>7 Rock Fintek?</p> <p>8 A. I don't recollect the exact amount,</p> <p>9 but I do recollect that they admitted sending</p> <p>10 us LevMed gloves by accident. They said they</p> <p>11 were for another customer.</p> <p>12 It's whatever was in one truck's</p> <p>13 load. So whatever one truckload, maybe it's</p> <p>14 9,000, maybe 9 million, 9,000 cartons, 9</p> <p>15 million gloves possibly.</p> <p>16 Q. Did -- did Rock Fintek pay Adorama</p> <p>17 and/or Kitchen Winners for the LevMed gloves?</p> <p>18 A. We -- I believe they did pay us. We</p> <p>19 got paid for them, and then we paid them for</p> <p>20 them, because we asked for supporting</p> <p>21 documentation to give to the hospital about</p> <p>22 them. The hospital accepted the documentation,</p> <p>23 which later we were told by MedCare that they</p> <p>24 were fake documents using their old FDA</p> <p>25 numbers.</p>
<p style="text-align: right;">Page 222</p> <p>1 Rock Fintek was purchasing pallets</p> <p>2 of gloves; correct?</p> <p>3 A. Correct.</p> <p>4 Q. And on the pallets, there were</p> <p>5 cartons, and in the cartons there were boxes of</p> <p>6 gloves.</p> <p>7 Is that accurate?</p> <p>8 A. Correct.</p> <p>9 Q. Okay. On the cartons, was it</p> <p>10 labeled the kind of gloves that were being</p> <p>11 contained therein?</p> <p>12 A. Yes.</p> <p>13 MR. RAKHUNOV: Objection.</p> <p>14 THE WITNESS: I believe so.</p> <p>15 BY MR. SPERBER:</p> <p>16 Q. So you can tell by looking at the</p> <p>17 carton what's inside, LevMed or MedCare?</p> <p>18 A. We have photos that we submitted of</p> <p>19 the pictures that we got that were delivered to</p> <p>20 us, and I don't remember if the box or the</p> <p>21 carton both said LevMed. I believe so, but</p> <p>22 there's -- the photos will show you.</p> <p>23 Q. Can you see by looking at the carton</p> <p>24 whether the gloves inside are protection or</p> <p>25 examination?</p>	<p style="text-align: right;">Page 224</p> <p>1 Q. Did Ascension ever complain to</p> <p>2 Rock Fintek about the LevMed gloves? Let me</p> <p>3 rephrase. About the quality of the LevMed</p> <p>4 gloves.</p> <p>5 A. Did Ascension complain about the</p> <p>6 quality?</p> <p>7 Q. Yeah.</p> <p>8 A. They complained about the quality</p> <p>9 later. The bigger problem is it delayed our</p> <p>10 payments for delivering a product that they</p> <p>11 didn't have the SKU for.</p> <p>12 Q. Okay. Were there complaints that</p> <p>13 the LevMed gloves were ripping?</p> <p>14 A. They're what?</p> <p>15 Q. Were there complaints that the</p> <p>16 LevMed gloves were ripping or tearing?</p> <p>17 A. Yes. Yes. Yes.</p> <p>18 Q. Is that in writing somewhere?</p> <p>19 A. I'm sure it is. I can't recollect</p> <p>20 exactly, but they were complaining about it.</p> <p>21 Q. Okay.</p> <p>22 A. The LevMed were just as fake as the</p> <p>23 other ones.</p> <p>24 Q. Am I correct that Adorama and/or</p> <p>25 Kitchen Winners offered to take the LevMed</p>

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<p style="text-align: right;">Page 225</p> <p>1 gloves back?</p> <p>2 A. I don't recollect. Possibly.</p> <p>3 Q. I'm going to show you a document.</p> <p>4 One second. I'll mark this as KWA-Kato 4.</p> <p>5 (Exhibit Number KWA-Kato 4, Email</p> <p>6 Chain, Bates-stamped RF_000443 - 446, was</p> <p>7 marked for identification.)</p> <p>8 BY MR. SPERBER:</p> <p>9 Q. Do you see in front of you a</p> <p>10 document, the top email that says it's from</p> <p>11 Bradley Gilling to Thomas Kato with the date of</p> <p>12 August 24, 2021?</p> <p>13 A. Yes.</p> <p>14 Q. Feel free to just scan through this</p> <p>15 and confirm this is an email chain that you</p> <p>16 were on.</p> <p>17 A. It wasn't a chain that I was already</p> <p>18 on?</p> <p>19 Q. No. I'm asking, do you recall this</p> <p>20 email chain?</p> <p>21 MR. RAKHUNOV: Scroll through it.</p> <p>22 THE WITNESS: I've got a zoom that</p> <p>23 goes in and out fast. Let me . . .</p> <p>24 (Reviewing document.)</p> <p>25 Okay. What was your question?</p>	<p style="text-align: right;">Page 227</p> <p>1 A. Yes.</p> <p>2 Q. If you'll scroll down, do you see</p> <p>3 discussion in this email chain about LevMed</p> <p>4 gloves?</p> <p>5 A. Yes, I do.</p> <p>6 Q. Do you see that Rock -- that</p> <p>7 Kitchen Winners offered to take the gloves</p> <p>8 back?</p> <p>9 A. I do.</p> <p>10 Q. Okay. And what was the response</p> <p>11 from Rock Fintek?</p> <p>12 A. Just says -- the email says if the</p> <p>13 hospital will accept them, we'll counter part</p> <p>14 of the order. If they don't, we'll take them</p> <p>15 back.</p> <p>16 Q. And did the hospital accept them?</p> <p>17 A. And after we gave them this</p> <p>18 documentation, the hospital accepted it. And</p> <p>19 after we gave it to MedCare, she said this was</p> <p>20 a fake documentation. This delayed us at least</p> <p>21 one or two weeks.</p> <p>22 Q. I'm going to show you a document.</p> <p>23 I'm marking this document that's in front of</p> <p>24 you, KWA-Kato 5.</p> <p>25 (Exhibit Number KWA-Kato 5, Sales</p>
<p style="text-align: right;">Page 226</p> <p>1 BY MR. SPERBER:</p> <p>2 Q. Do you recall this email chain?</p> <p>3 A. I do.</p> <p>4 Q. Okay. Is this an accurate -- you</p> <p>5 know, is this a real email chain that you were</p> <p>6 on?</p> <p>7 A. I was -- I don't see myself on</p> <p>8 there. I see it being forwarded to me.</p> <p>9 Q. Okay. Take a look at the bottom</p> <p>10 right-hand corner of most of these pages.</p> <p>11 You'll see a number, RF_, and then there are</p> <p>12 some -- a bunch of digits.</p> <p>13 A. Where?</p> <p>14 Q. The bottom right-hand corner. If</p> <p>15 you go to page 2, for example, you'll see --</p> <p>16 A. Okay.</p> <p>17 Q. -- RF_000444.</p> <p>18 A. Yeah.</p> <p>19 Q. You see where I am?</p> <p>20 A. Yes.</p> <p>21 Q. This does indicate they came from</p> <p>22 Rock Fintek's production.</p> <p>23 A. Okay.</p> <p>24 Q. Is this a real email that</p> <p>25 Rock Fintek was part of?</p>	<p style="text-align: right;">Page 228</p> <p>1 and Purchase Agreement, was marked for</p> <p>2 identification.)</p> <p>3 BY MR. SPERBER:</p> <p>4 Q. Do you see a document in front of</p> <p>5 you that's labeled "Sales and Purchase</p> <p>6 Agreement"?</p> <p>7 A. Yes, I do.</p> <p>8 Q. Are you familiar with this document?</p> <p>9 A. Yes.</p> <p>10 Q. Did you answer? I'm sorry.</p> <p>11 A. Yes, I said.</p> <p>12 Q. Oh, okay.</p> <p>13 You've seen it -- you've seen this</p> <p>14 before?</p> <p>15 A. Yes. It looks like -- it looks like</p> <p>16 our -- our purchase order.</p> <p>17 Q. Okay. How many boxes of gloves did</p> <p>18 Rock Fintek agree under this contract to</p> <p>19 purchase from Kitchen Winners?</p> <p>20 A. It should say somewhere on the</p> <p>21 agreement. 100 -- 1.5 million boxes.</p> <p>22 Q. Okay. And how many boxes of gloves</p> <p>23 did Rock Fintek actually take from</p> <p>24 Kitchen Winners?</p> <p>25 A. About 1.7.</p>

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<p style="text-align: right;">Page 229</p> <p>1 Q. Okay. What did Rock Fintek do with 2 those 200,000 boxes of gloves in excess of the 3 number on this contract? 4 A. We delivered them to the hospital. 5 Q. Okay. 6 A. And didn't get paid for them. 7 Q. For any -- for any of them? 8 A. Didn't get paid for the overage. 9 Q. What was the overage? 10 A. 200,000. 11 Q. So you had a contract for 200 12 million gloves with Ascension; correct? 13 A. Correct. 14 Q. How many gloves did you get from JNS 15 or Stern? 16 A. We were buying gloves from them 17 already before to fill the 500,000. 18 Q. I'm sorry? 19 A. Before, we were already buying 20 gloves to fill the 500,000 cap. 21 Q. Okay. So how many gloves had you 22 purchased before you went entered into this 23 contract on April 7, 2021? 24 A. Maybe 30 million, 20 or 30, I 25 reckon.</p>	<p style="text-align: right;">Page 231</p> <p>1 BY MR. SPERBER: 2 Q. Can you explain that? 3 A. They were delivering gloves beyond 4 our contract just so they can keep getting more 5 checks, and they counted on COVID for us not to 6 be able to get there and get an accurate count 7 until after the fact. They were delivered, and 8 Medline counted them. 9 Q. I'm confused. Rock Fintek have a 10 contract with Ascension for 200 million gloves; 11 correct? 12 A. Correct. 13 Q. And it was Rock Fintek's job to 14 procure those gloves for Ascension; right? 15 A. Correct. 16 Q. So didn't Rock Fintek know how many 17 gloves it was delivering to Ascension? 18 A. We couldn't get a final exact count 19 until they were delivered, which was week one 20 to two weeks or so after. 21 Q. So when you say that Adorama and 22 Kitchen Winners were lying to Rock Fintek, what 23 are you referring to specifically? 24 A. The quantity of gloves that they 25 were sending us. They were not exactly as we</p>
<p style="text-align: right;">Page 230</p> <p>1 Q. Where would I go to find that out? 2 A. Where can you go to find that out? 3 I guess Medline's reports will show you what we 4 had delivered. They have all the quantities 5 and times. 6 Q. So Rock Fintek has no documentation 7 that would tell me how many gloves it purchased 8 for its purchase order with Ascension prior to 9 April 7, 2021? 10 A. You could look at JNS's invoices. 11 You can look at Adorama Kitchen Winners' 12 invoices. 13 Q. Okay. And that would come up with 14 the answer? 15 A. Should. 16 Q. But you don't know the answer? 17 A. I don't recollect. 18 Q. Why did Rock Fintek take more than 19 the number of gloves listed on the contract? 20 MR. RAKHUNOV: Objection. 21 THE WITNESS: Because Adorama, 22 Kitchen Winners, and JNS were always lying 23 to us about the quantity they were 24 delivering. 25 ///</p>	<p style="text-align: right;">Page 232</p> <p>1 were paying for. 2 Q. How much were they off? 3 A. I don't know exactly because Hershey 4 refused to give us any of the truckers' 5 invoices to contact anybody to check anything, 6 but I would guess about 20 million off, more. 7 20 million more. 8 Q. What is that number based upon? 9 A. The number that Ascension gave us, 10 that Medline gave to Ascension for what we 11 delivered. 12 Q. If you go to paragraph 7 of this 13 contract, on page 2? 14 A. Okay. 15 Q. It says, "Seller shall be allowed a 16 variance in packing quantities of up to 17 10 percent." 18 Do you see that? 19 A. No. Where are you reading? 20 Q. Paragraph 7. 21 A. Do you want to highlight it? I 22 don't know what you're reading. I'm on page 2. 23 MR. RAKHUNOV: Page 2, Number 7. 24 BY MR. SPERBER: 25 Q. Can you see the highlight?</p>

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<p>Page 233</p> <p>1 A. Page 2, Number 7. "Manufacturing 2 Variance"?</p> <p>3 Q. Yes.</p> <p>4 A. "Seller shall be allowed a variance 5 in packing quantities of up to 10 percent." 6 So 10 percent.</p> <p>7 Q. Do you know whether this variance 8 that you're referring to was greater or less 9 than 10 percent?</p> <p>10 A. It was above 10 percent.</p> <p>11 Q. Okay. And, again, what documents 12 could I look at to figure that out?</p> <p>13 A. Medline has an accurate count. You 14 can get the document from them on what they 15 received.</p> <p>16 Q. Okay. But as I understand, 17 Rock Fintek was picking up these gloves from --</p> <p>18 A. Hershey Weiner delivered gloves 19 himself also with his own trucking company and 20 refused on multiple occasions to give us the 21 invoices for the trucking.</p> <p>22 So the only -- because 23 Hershey Weiner refused to give us those 24 documents, if you want documents, you have to 25 ask Medline for the documents of what was</p>	<p>Page 235</p> <p>1 BY MR. SPERBER:</p> <p>2 Q. So you don't know?</p> <p>3 A. I don't operate their warehouse. I 4 don't know how they -- what their system is.</p> <p>5 Q. So you're not aware of any way I 6 could, by looking at the pallet, figure out who 7 the seller was?</p> <p>8 A. They know exactly what pallet was 9 delivered when, where, and where it was moved 10 to. And if it was moved to another rack, they 11 know it was moved to another rack. Medline has 12 a very accurate reporting system of everything. 13 It's meticulous.</p> <p>14 Q. But you don't know?</p> <p>15 A. I don't know how they do it, no. 16 I'm not in their business.</p> <p>17 Q. Do you know how I'd figure out, by 18 looking at a pallet, when it was delivered to 19 Medline?</p> <p>20 A. No.</p> <p>21 Q. You said earlier there was a time 22 that you went to the Medline warehouses to look 23 at the gloves; is that correct?</p> <p>24 A. That I went to what?</p> <p>25 Q. Medline warehouses to look at the</p>
<p>Page 234</p> <p>1 received in their warehouses.</p> <p>2 Q. Okay.</p> <p>3 A. You'll have an accurate count with 4 the date.</p> <p>5 Q. But, I mean, Medline hasn't given me 6 those documents yet; so that's why I'm asking 7 you.</p> <p>8 A. Hershey Weiner hasn't given me the 9 documents yet either. So what can I tell you?</p> <p>10 Q. Again, Rock Fintek is suing my 11 clients here.</p> <p>12 A. If he gives them to me, I can give 13 them to you. That's it.</p> <p>14 MR. RAKHUNOV: Just focus on the 15 questions, Thomas.</p> <p>16 THE WITNESS: Okay.</p> <p>17 BY MR. SPERBER:</p> <p>18 Q. If I was standing in a Medline 19 warehouse looking at a pallet of gloves, how 20 would I know who sold those gloves to 21 Rock Fintek?</p> <p>22 MR. RAKHUNOV: Objection.</p> <p>23 THE WITNESS: You can ask Medline 24 that question, how they identify them. 25 ///</p>	<p>Page 236</p> <p>1 gloves.</p> <p>2 A. Yes. Yes, I did.</p> <p>3 Q. Was that before over after Medline 4 had done its count of the gloves?</p> <p>5 A. After.</p> <p>6 Q. When you got there, were -- the 7 cartons of gloves, had they all been opened?</p> <p>8 A. No.</p> <p>9 Q. So how did Medline count the gloves 10 if it hadn't opened the cartons?</p> <p>11 MR. RAKHUNOV: Objection.</p> <p>12 THE WITNESS: They had ten boxes in 13 a carton.</p> <p>14 BY MR. SPERBER:</p> <p>15 Q. How do they know what's inside the 16 carton?</p> <p>17 A. Maybe they opened up one box. I 18 don't know how Medline does it. You can ask 19 them.</p> <p>20 Q. So you just don't know?</p> <p>21 A. I don't know how Medline does 22 things. Anything you want to ask about 23 Medline, ask Medline. I'm not going to guess 24 what Medline does and how they do it.</p> <p>25 Q. Is it your understanding that</p>

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<p style="text-align: right;">Page 237</p> <p>1 Rock Fintek claims that it overpaid Adorama 2 and/or Kitchen Winners for 5,963 cartons of 3 gloves? 4 A. Is it my understanding of this? 5 Q. Is it -- is it -- is that correct? 6 Is that something that Rock Fintek is claiming? 7 A. Is it in the complaint? 8 Q. I'm asking you. You're Rock Fintek. 9 A. I looked at the complaint. I think 10 I remember seeing that exact amount in the 11 complaint. If that's the exact amount I read, 12 then yes, that's correct. 13 Q. Okay. What did Rock Fintek 14 ultimately do with those gloves that it 15 purchased? 16 A. We delivered them all to Medline. 17 Q. Okay. And was it paid for them? 18 A. We paid for them. 19 Q. I'm sorry? 20 A. Did we pay for the gloves? 21 Q. No, no. Did Rock Fintek get paid 22 for them? 23 A. Did Rock Fintek pay for them? 24 MR. RAKHUNOV: No, get paid for 25 them.</p>	<p style="text-align: right;">Page 239</p> <p>1 they requested and what we purchased. We tried 2 to send them back all to Adorama and 3 Kitchen Winners, and they refused. 4 Q. Why didn't you just return them? 5 (Stenographer requests 6 clarification.) 7 THE WITNESS: They refused to allow 8 -- 9 BY MR. SPERBER: 10 Q. Why didn't you just return them? 11 A. We tried to. They refused to take 12 them. 13 Q. You didn't just put them on a truck 14 and bring them back? 15 A. I don't know which warehouses they 16 came from. Remember, Hershey never gave us any 17 of their trucking invoices. 18 Q. You don't know where Adorama's 19 located at? You can't go onto their website 20 and find an address? 21 A. No, didn't do that. 22 Q. Did you try and sell those gloves to 23 somebody else? 24 A. Yes. 25 Q. And?</p>
<p style="text-align: right;">Page 238</p> <p>1 BY MR. SPERBER: 2 Q. Did Rock Fintek get paid for them? 3 A. Get paid for them? Yes, we got paid 4 for them. 5 Q. Okay. 6 A. Not in full, but we got paid. 7 Q. Okay. So how much were you paid for 8 those gloves? 9 A. 34 or 35 million for all -- 10 Q. No, I'm talking about the -- 11 Rock Fintek is claiming that it overpaid my 12 clients for 5,963 cartons of gloves. 13 A. We did not get paid for those. 14 Q. Okay. So did it get those gloves 15 back from Medline? 16 A. No, we did not. 17 Q. Why not? 18 A. Because they had discrepancies with 19 all the gloves and didn't want any of them. 20 Q. You delivered gloves which they 21 didn't pay you for; correct? 22 A. Correct. 23 Q. So why didn't you take them back? 24 A. Because the gloves -- all the gloves 25 we delivered did not meet the criteria of what</p>	<p style="text-align: right;">Page 240</p> <p>1 A. It was unsuccessful. 2 Q. How many potential customers did you 3 approach? 4 A. Dozens. 5 Q. And what did they all -- why did -- 6 no one wanted to buy gloves from you at any 7 price? 8 A. They said, "These gloves are 9 horrible. We're not buying them." 10 The quality was so bad that nobody 11 would buy them. We couldn't even sell them for 12 \$0.20. 13 Q. Why did Rock Fintek buy them? 14 A. Because we believed we were doing 15 business with a credible company, not somebody 16 giving us something that we didn't order. 17 Q. Did Rock Fintek at any point in time 18 look at the gloves before it purchased them? 19 A. No. We could not. 20 Q. You never took one box of gloves -- 21 one carton of gloves to look at? 22 A. We might have had a box given. I 23 don't recollect, though, exactly. 24 Q. Didn't Rock Fintek contractually 25 agree that it could look at the gloves before</p>

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<p style="text-align: right;">Page 241</p> <p>1 it purchased them?</p> <p>2 MR. RAKHUNOV: Objection.</p> <p>3 THE WITNESS: I don't know about</p> <p>4 that, but might have been given -- we might</p> <p>5 have been given a couple boxes to look at</p> <p>6 before.</p> <p>7 BY MR. SPERBER:</p> <p>8 Q. Take a look at the top of page 2 of</p> <p>9 the exhibit in front of you.</p> <p>10 A. Top of page 2.</p> <p>11 Q. It's paragraph 2.d., the first</p> <p>12 paragraph on page 2.</p> <p>13 A. Okay.</p> <p>14 Q. It says, "Any payment of the</p> <p>15 Purchase Price payable for each box of gloves</p> <p>16 delivered shall be paid to Seller upon Buyer's</p> <p>17 inspection of the products at Seller's</p> <p>18 warehouse in Los Angeles, California, prior to</p> <p>19 Buyer's collection of the delivered Products."</p> <p>20 Do you see where I am over there?</p> <p>21 A. Yes.</p> <p>22 Q. Didn't Rock Fintek agree it was</p> <p>23 going to inspect the gloves before it picked</p> <p>24 them up?</p> <p>25 MR. RAKHUNOV: Objection.</p>	<p style="text-align: right;">Page 243</p> <p>1 BY MR. SPERBER:</p> <p>2 Q. I mean, didn't they put in their own</p> <p>3 contract that you were going to do this?</p> <p>4 MR. RAKHUNOV: Objection.</p> <p>5 THE WITNESS: They put it, but then</p> <p>6 it wasn't allowed.</p> <p>7 BY MR. SPERBER:</p> <p>8 Q. Again, do you have anything anywhere</p> <p>9 documenting that someone from either Adorama or</p> <p>10 Kitchen Winners or the warehouse told you that</p> <p>11 you were not allowed to go to the warehouse --</p> <p>12 MR. RAKHUNOV: Objection.</p> <p>13 BY MR. SPERBER:</p> <p>14 Q. -- and look at the goods?</p> <p>15 A. Yes, on the phone, they told me</p> <p>16 multiple times.</p> <p>17 Q. And that's it?</p> <p>18 A. Yes.</p> <p>19 Q. And you never said, "Well, in our</p> <p>20 contract you agreed we could do this before we</p> <p>21 pay you"?</p> <p>22 A. They lied about a lot of things.</p> <p>23 This was just another.</p> <p>24 (Exhibit Number KWA-Kato 6, Rock</p> <p>25 Fintek LLC's Amended Initial Disclosures,</p>
<p style="text-align: right;">Page 242</p> <p>1 THE WITNESS: We weren't allowed to.</p> <p>2 We weren't allowed to inspect anything.</p> <p>3 BY MR. SPERBER:</p> <p>4 Q. Again, who was stopping you?</p> <p>5 MR. RAKHUNOV: Objection.</p> <p>6 THE WITNESS: The warehouse.</p> <p>7 Everyone around. Couldn't get on a plane</p> <p>8 to get there.</p> <p>9 BY MR. SPERBER:</p> <p>10 Q. Did Rock Fintek try to send someone</p> <p>11 to the warehouse to look at the gloves?</p> <p>12 A. They said we're not allowed.</p> <p>13 Q. Who said that?</p> <p>14 A. The warehouse. The same people.</p> <p>15 Q. Who at the warehouse told you that?</p> <p>16 A. I don't remember the exact names.</p> <p>17 We're not allowed to look at anything. We're</p> <p>18 not allowed to enter these warehouses.</p> <p>19 Q. Do you have a document that says you</p> <p>20 weren't allowed in?</p> <p>21 MR. RAKHUNOV: Objection.</p> <p>22 THE WITNESS: Hershey says we</p> <p>23 weren't allowed. Mendel says we're not</p> <p>24 allowed. They said it on the phone.</p> <p>25 ///</p>	<p style="text-align: right;">Page 244</p> <p>1 was marked for identification.)</p> <p>2 BY MR. SPERBER:</p> <p>3 Q. I'm showing you another document I'm</p> <p>4 labeling KWA-Kato 6.</p> <p>5 Do you see a document in front of</p> <p>6 you labeled "Rock Fintek LLC's Amended Initial</p> <p>7 Disclosures"?</p> <p>8 A. Yes.</p> <p>9 Q. Scroll down to page 3.</p> <p>10 A. Okay.</p> <p>11 Q. And the section that's involved, it</p> <p>12 says "Unpaid Amounts by Ascension and Rebates</p> <p>13 Owed by Adorama."</p> <p>14 Do you see where I am?</p> <p>15 A. Yes.</p> <p>16 Q. Read that full paragraph at the</p> <p>17 bottom of page 3.</p> <p>18 A. (Reviewing document.)</p> <p>19 Okay.</p> <p>20 Q. Exactly how much money does</p> <p>21 Ascension owe to Rock Fintek under the POs --</p> <p>22 the purchase orders between the two of you?</p> <p>23 A. There's 2 million -- approximately</p> <p>24 \$2 million that was not paid.</p> <p>25 Q. I see where it says approximately,</p>

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<p style="text-align: right;">Page 245</p> <p>1 but I want to figure out what's the exact 2 number. 3 A. I don't know the exact number. 4 Q. You see at the very end of that 5 paragraph where it refers to Rock Fintek's 6 invoice to Ascension? 7 A. Okay. 8 Q. Did Rock Fintek give invoices to 9 Ascension? 10 A. It's like that order that you had 11 saw before. They gave us one; we gave them 12 one. 13 Q. So would you give invoices to them 14 contemporaneous with the purchase order, or 15 would you give invoice them when you delivered 16 gloves to them? 17 A. I believe we gave them an invoice in 18 the beginning of the order. And then we tried 19 to collect on this at the end, and that's where 20 they stopped paying us. 21 Q. I mean, I'll just tell you, I've 22 gone through Rock Fintek's production. I found 23 a couple invoices from Rock Fintek to 24 Ascension, but nothing in the amount of the, 25 you know, approximately \$37 million that I</p>	<p style="text-align: right;">Page 247</p> <p>1 3:40 p.m.) 2 BY MR. SPERBER: 3 Q. Okay. I apologize, Mr. Kato. I 4 don't recall exactly where we left off, but let 5 me do it this way. 6 Okay. Mr. Kato, I'm going to show 7 you a document I'm going to mark as KWA-Kato 7. 8 (Exhibit Number KWA-Kato 7, Rock 9 Fintek Invoice 28329900000870083, was 10 marked for identification.) 11 BY MR. SPERBER: 12 Q. Do you see an invoice in front of 13 you? 14 A. Yes. 15 Q. Is this an invoice that Rock Fintek 16 sent to Ascension? 17 A. (Reviewing document.) 18 I believe so, yes. 19 Q. Okay. This invoice is dated 20 December 7, 2020; right? 21 A. Correct. 22 Q. Is that the same date as the 23 purchase order from Ascension? I can show it 24 to you again, if you like. 25 A. So where is the date on this one?</p>
<p style="text-align: right;">Page 246</p> <p>1 understood was the purchase price for the 2 200 million dollars [sic]. 3 Can you shed some light to me on 4 what invoice I should be looking for here? 5 A. I believe when we were closing this 6 order out, that's in July, and that's when they 7 started to complain about the gloves and they 8 weren't happy with the quality, and the 2 9 million was a moot point because they wanted to 10 return all the gloves. 11 Q. I'm sorry. I'm not following what 12 you're saying. Can you repeat that? 13 A. When they sent a complaint about the 14 gloves in July, that's around the time we 15 wanted to get paid in full and wrap this up, 16 and they, at the time, wanted to return all the 17 gloves. So there was no discussion about 18 paying us 2 million. They wanted to return 19 everything, and we did not pursue them to pay 20 us. 21 MR. RAKHUNOV: Can we go off the 22 record -- can we go off the record for one 23 second? 24 MR. SPERBER: Sure. 25 (Break taken from 3:29 p.m. to</p>	<p style="text-align: right;">Page 248</p> <p>1 December 7. Okay. 2 Q. Let me -- can you see a PO in front 3 of you? No, I've got to click "Share." 4 Do you see a purchase order in front 5 of you? 6 A. Yes. Looks like the same date. 7 Q. Okay. Can you explain to me, why 8 was Ascension -- excuse me. Why was 9 Rock Fintek sending an invoice to Ascension on 10 the same date as the PO? 11 A. For deposit. 12 Q. So you were asking for a \$37 million 13 deposit? 14 A. No. We were asking for a 15 \$7-9 million deposit. I believe it ended up 16 being nine, is what we agreed to. 17 Q. Now, to go back to the invoice, it's 18 for the full amount; right? 19 A. No. It doesn't say full amount. 20 Q. Here's the invoice again. Why don't 21 you -- oh, I see. Amount due upon order is 22 9,250,000? 23 A. Correct. 24 Q. Did Ascension send follow-up 25 invoices as it got paid for delivering gloves?</p>

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<p style="text-align: right;">Page 249</p> <p>1 A. I believe so, and I believe we 2 provided them. 3 Q. Now, when Rock Fintek would deliver 4 gloves to Ascension, would Ascension provide 5 any documentation -- you know, receipts, for 6 example -- saying "gloves received"? 7 A. Would Rock Fintek sent a closed 8 receipt. 9 Q. I'm sorry. Would Ascension provide 10 Rock Fintek with receipts of some sort? 11 A. No. 12 Q. They would just wire money to your 13 account? 14 A. They would send something like this 15 document, like the document that -- 16 MR. RAKHUNOV: Objection. This is 17 not an Ascension document. You used a 18 previous exhibit; right? 19 BY MR. SPERBER: 20 Q. Like the purchase order? 21 A. Yes. They would send us something 22 similar to this that they were paying, made a 23 payment. 24 Q. To the extent those haven't been 25 produced, I'm going to call for them to be</p>	<p style="text-align: right;">Page 251</p> <p>1 million nitrile ASTM FDA 510(k) D6319 rated 2 gloves." 3 Do you see that? 4 A. Yes. 5 Q. So they're saying here that they 6 paid you the \$37 million, or approximately 7 \$37 million. 8 A. Correct. 9 Q. So did they pay this purchase order 10 in full -- or this invoice in full? 11 A. No. 12 Q. So they're wrong, is your take? 13 A. Oh, if you want to say 14 approximately. I wouldn't say it's not in 15 full. They held \$2 million, which you could 16 see in the bank records also that you have. 17 Q. Oh, I could if they weren't heavily 18 redacted. 19 A. Everything that came in from 20 Ascension is on there. 21 Q. Again, did Ascension ever return to 22 Rock Fintek the gloves for which it had been 23 paid? 24 A. No, it did not. 25 Q. Why not?</p>
<p style="text-align: right;">Page 250</p> <p>1 produced. 2 Now, the invoice that we looked at a 3 few minutes ago was for \$37 million; correct? 4 That was the total amount? 5 A. Correct. 6 Q. And that was for 200 million gloves? 7 A. Correct. 8 Q. I'll show it to you again just to be 9 clear. Right? It's \$37 million, and the total 10 quantity was 200 million? 11 A. Correct. 12 Q. Now, Ascension had sent a letter to 13 Rock Fintek when things started to fall apart. 14 I believe Avi showed it to you earlier. I'm 15 going to display it now. This was previously 16 marked as JNS Exhibit A. 17 Do you recall this letter? 18 MR. RAKHUNOV: Just note my 19 objection to form. 20 THE WITNESS: Yes, I remember the 21 letter. 22 BY MR. SPERBER: 23 Q. If you go to page 2 at the very top, 24 they say, "Resource Group paid Supplier 25 approximately \$37 million to provide 200</p>	<p style="text-align: right;">Page 252</p> <p>1 MR. RAKHUNOV: Objection. Let me -- 2 before you answer that, I want to caution 3 you that if anything you might say comes 4 from discussions with me about what you 5 might think or what -- what I might think, 6 I don't want you to answer that. 7 But if you actually have a factual 8 answer that doesn't come from deliberations 9 of counsel, then you can go ahead. 10 THE WITNESS: I don't know what 11 Ascension does and would do and not do and 12 why they would do or not do something. I 13 can't say what their actions are going to 14 be. I just speak of my own. 15 BY MR. SPERBER: 16 Q. If I wanted to find those specific 17 gloves that Rock Fintek was not paid for, those 18 specific ones, where would I go and find them? 19 A. I would look at the last shipments 20 that came in to Medline, ask them what rack or 21 pallet or shelf they put them on, and then you 22 can go look at them. 23 Q. Do you know where they are? 24 A. I do not know where Medline's 25 keeping them.</p>

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<p style="text-align: right;">Page 253</p> <p>1 Q. Have you tested those specific 2 gloves? 3 A. I randomly went and took gloves from 4 various warehouses and various pallets, various 5 lots, and tested. 6 Q. Do you specifically know if there 7 are any problems with the gloves that Ascension 8 did not pay Rock Fintek for? 9 A. I believe they were all the same. 10 Q. What do you base that upon? 11 A. The testing report I got from Akron. 12 Q. And that tells you that every glove 13 that was -- all 200 million gloves were exactly 14 the same? 15 A. Every glove had almost no nitrile in 16 it. If not, it had traces of nitrile. That's 17 what we were told. 18 Q. Uh-huh. 19 A. And then when confronting the 20 manufacturer after the fact, tried to tell us a 21 different way to do testing, that everything 22 was consistent, all the same formula. 23 Q. Is part of Rock Fintek's claim here 24 that some of the gloves were protection gloves 25 and some of them were examination gloves?</p>	<p style="text-align: right;">Page 255</p> <p>1 per our contract. 2 BY MR. SPERBER: 3 Q. To your knowledge, is there a 4 material difference between a MedCare 5 examination glove and a MedCare protection 6 glove? 7 A. Yes. 8 Q. Again, what is that difference? 9 A. Again, I'm not the expert in it, 10 what it would be, but there's significant lower 11 quality, not to be used for examination 12 protection. 13 Q. And how do you know that? 14 A. It's what I was told from Anna from 15 MedCare. 16 Q. Okay. Anything else? 17 A. No. 18 Q. How did -- how did MedCare figure 19 out which boxes contained protection gloves and 20 which ones contained examination gloves? 21 A. I believe a lot of them are on the 22 outside of the carton. 23 Q. And you're -- 24 A. Pallets came wrapped protection or 25 wrapped for examination. So if you look at the</p>
<p style="text-align: right;">Page 254</p> <p>1 A. Yes, it is. 2 Q. So not all of those were the same; 3 correct? 4 A. They were not the same. It was half 5 and half, approximately. 6 Q. Okay. How do you know that? 7 A. That's what we were told by Medline. 8 Q. So you're relying upon Medline for 9 that? 10 A. We relied on Medline for that. 11 Q. Who at Medline made that 12 determination? 13 A. Who at Medline? I don't know who 14 made the determination, but -- one moment. 15 I've got to charge the computer again. 16 I don't know any specific person at 17 Medline that made that. 18 Q. What is the difference between a 19 protection glove and an examination glove from 20 MedCare? 21 MR. RAKHUNOV: Objection. 22 THE WITNESS: I'm not an expert on 23 what the difference is. I just know both 24 gloves didn't have any nitrile on them, and 25 both gloves are not D6319 like we ordered</p>	<p style="text-align: right;">Page 256</p> <p>1 cartons and they're examination, that pallet's 2 examination. Otherwise, that pallet's 3 protection. 4 Q. And would that have been something 5 that you could see just looking at the pallet 6 when standing there? 7 MR. RAKHUNOV: Objection. 8 THE WITNESS: I believe so. We took 9 a lot of photos, and we submitted them. So 10 I guess you can look at the photos, and it 11 should show that. 12 BY MR. SPERBER: 13 Q. So, presumably, Medline, when it 14 received these gloves, could see immediately 15 whether they were protection or examination 16 gloves; correct? 17 MR. RAKHUNOV: Objection. 18 THE WITNESS: Medline was doing a 19 count of gloves, boxes, cartons. 20 BY MR. SPERBER: 21 Q. They noticed when you sent LevMed 22 gloves; right? 23 A. Because it wasn't the name, MedCare. 24 But they didn't have the SKU number for it. So 25 all the protection and examination all said</p>

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<p style="text-align: right;">Page 257</p> <p>1 MedCare on them. LevMed was a new SKU, new 2 name. 3 Q. Who figured out there was an issue 4 with the examination or protection -- you know, 5 whether -- that they were mixed together? 6 A. We identified that, Brad and I, when 7 we went to the warehouse. We identified a 8 large quantity of protection on there. 9 Q. So did Medline ever -- excuse me. 10 Did Ascension ever complain to you that you had 11 sold them protection gloves and not examination 12 gloves? 13 A. They complained that they didn't get 14 D6319 510(k) gloves. 15 Q. Did your contract with 16 Kitchen Winners and/or Adorama -- did it 17 require them to sell you gloves that conformed 18 with ASTM D6319? 19 MR. RAKHUNOV: Objection. 20 Go ahead. 21 THE WITNESS: Yes. 22 BY MR. SPERBER: 23 Q. It did. Okay. 24 Let me show you that contract again. 25 MR. SPERBER: Off the record for a</p>	<p style="text-align: right;">Page 259</p> <p>1 BY MR. SPERBER: 2 Q. Okay. Besides in this agreement, 3 was there somewhere else where Adorama and/or 4 Kitchen Winners agreed to provide gloves that 5 complied with the requirements of D6319? 6 MR. RAKHUNOV: Objection. 7 THE WITNESS: I would have to ask 8 Bradley, ask him. That's what we talked 9 about the whole time. 10 BY MR. SPERBER: 11 Q. All right. Are you claiming that 12 the gloves here were not FDA 510(k) certified? 13 A. I don't know what the definition of 14 that is, but I don't believe they are. 15 Q. And what is (indiscernible) -- 16 CERTIFIED STENOGRAPHER: I'm sorry? 17 THE WITNESS: There was no nitrile 18 on the glove. 19 BY MR. SPERBER: 20 Q. Hold on. Wait. Let me back up. 21 The question was, and what was the 22 basis for that? 23 A. You want me to find FDA 510(k), and 24 I'll tell you. 25 Q. I believe you said earlier that</p>
<p style="text-align: right;">Page 258</p> <p>1 second. 2 (Off the record from 3:54 p.m. to 3 3:55 p.m.) 4 BY MR. SPERBER: 5 Q. Do you see in front of you 6 KWA-Kato 5? 7 A. Yes. 8 Q. The sales and purchase agreement? 9 A. Yes. 10 Q. Where in this document did Adorama 11 and/or Kitchen Winners agree to sell gloves 12 that met the requirements of ASTM D6319? 13 A. It says right there, FDA 510(k)s. 14 Q. Is that the same thing? 15 A. I believe it's a very similar glove. 16 Q. Does every 510(k) certified glove 17 comply with D6319? 18 MR. RAKHUNOV: Objection. 19 THE WITNESS: I'm not positive. I 20 would have to ask an expert. 21 BY MR. SPERBER: 22 Q. What does FDA 510(k) mean? 23 MR. RAKHUNOV: Objection. 24 THE WITNESS: Don't recall exactly. 25 ///</p>	<p style="text-align: right;">Page 260</p> <p>1 Kitchen Winners and/or Adorama delivered gloves 2 to Medline. 3 Was that correct? 4 A. Yes. 5 Q. Do you have any documentation to 6 back up that assertion? 7 A. I told you earlier, Hershey Weiner 8 would not give me the documentation. The only 9 thing he gave me was a schedule. He didn't 10 give me the actual documentation of the 11 truckers. He gave me a schedule, all of the 12 deliveries that they had made, but not 13 invoices. 14 Q. So you don't have documentation to 15 show that Kitchen Winners delivered products to 16 Medline? 17 A. I have a detailed report from 18 Hershey Weiner of what was delivered, which is 19 submitted into this complaint or into your 20 documents that you have somewhere. I just do 21 not have his trucking reports. But I have a 22 detailed report that he sent of what he 23 delivered and when he delivered it. 24 Q. Did he say where he delivered it to? 25 A. If you pull up the document, you'll</p>

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1 see it.

2 **Q. I'm asking you. Did he tell you**

3 **where he delivered the gloves?**

4 A. I don't recollect. Pull up the

5 document and read it. You'll see where it is,

6 what it says.

7 **Q. So you have no independent**

8 **recollection as to whether or not --**

9 A. Pull up the document and I'll read

10 it and I'll tell you.

11 MR. RAKHUNOV: Tommy, let him finish

12 the question.

13 BY MR. SPERBER:

14 **Q. Let me ask the question.**

15 A. I heard the question.

16 **Q. You have no independent recollection**

17 **as to whether or not Kitchen Winners and/or**

18 **Adorama delivered gloves to Medline; correct?**

19 A. They 100 percent delivered all the

20 gloves to Medline.

21 **Q. You told me earlier, Dimerco**

22 **delivered some of them.**

23 A. They delivered between Dimerco and

24 Adorama and Kitchen Winners and Joel Stern and

25 JNS.

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1 Is that better?

2 **Q. I don't understand what you're**

3 **saying. I'll be honest.**

4 A. JNS, Joel Stern, Adorama,

5 Kitchen Winners, delivered all the gloves

6 for -- to Medline.

7 **Q. So they're the ones who hired the**

8 **ship -- the trucking companies to deliver the**

9 **gloves to Medline?**

10 A. They delivered them or Dimerco

11 delivered them. There's only two groups of

12 people: everyone that gave me fraud stuff,

13 fake stuff, or not what I ordered; and then

14 this truck -- shipping company. Two groups

15 delivered all the gloves.

16 **Q. So I'm asking, what evidence do you**

17 **have to support your assertion that Adorama or**

18 **Kitchen Winners delivered gloves to Medline?**

19 **And when I say "delivered," I mean**

20 **they are the ones who arranged the shipping as**

21 **to opposed to Dimerco or Rock Fintek arranging**

22 **the shipping.**

23 A. I'm sure there's messages with

24 Hershey Weiner and Mendel Banon with the

25 trucking companies they hired to deliver them.

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1 **Q. You can't point me to any of them?**

2 A. He wouldn't give them to me.

3 **Q. So you don't have them?**

4 A. He wouldn't give them to me. He

5 sent me a schedule of what he supplied.

6 **Q. You said earlier that Joseph**

7 **Mendlowitz was copied on emails to you; is that**

8 **correct?**

9 A. I believe he was on some emails,

10 yes.

11 **Q. I'm going to call for production of**

12 **those emails.**

13 MR. RAKHUNOV: Wait. Say that --

14 sorry. Repeat that. What emails are

15 you asking for?

16 MR. SPERBER: Emails from Adorama or

17 Kitchen Winners to Rock Fintek on which

18 Joseph Mendlowitz is copied.

19 BY MR. SPERBER:

20 **Q. Did Joseph Mendlowitz ever email you**

21 **directly or Rock Fintek directly?**

22 A. I don't believe so.

23 **Q. We discussed a little bit earlier**

24 **someone by the name Arik Maimon. I just want**

25 **to go a little further in that direction.**

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1 **How did Mr. Maimon become involved**

2 **in this transaction?**

3 A. He said he could help broker the

4 deal and make sure that we didn't get screwed,

5 is what he said.

6 **Q. You had testified earlier that you**

7 **approached Kitchen Winners; right?**

8 A. Correct.

9 **Q. How did Arik Maimon get involved in**

10 **the whole thing?**

11 A. Arik Maimon said that he knew

12 somebody at Kitchen Winners or Adorama or on

13 the board or somebody that said we should have

14 him involved in the deal and have all

15 communication go through him to make sure

16 everything's going to be legitimate.

17 **Q. I'm going to share a document with**

18 **you. I'm going to mark this as KWA-Kato 8.**

19 **(Exhibit Number KWA-Kato 8, Letter**

20 **of Intent, Bates-stamped RF_000962 - 963,**

21 **was marked for identification.)**

22 BY MR. SPERBER:

23 **Q. Do you see a document in front of**

24 **you labeled "Letter of Intent"?**

25 A. Yes.

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<p style="text-align: right;">Page 265</p> <p>1 Q. Have you ever seen this before?</p> <p>2 A. Let's see.</p> <p>3 (Reviewing document.)</p> <p>4 Yes.</p> <p>5 Q. Okay. What is the nature of this</p> <p>6 document?</p> <p>7 A. It's like a broker agreement with</p> <p>8 Arik Maimon.</p> <p>9 Q. Would it be correct to say that</p> <p>10 Rock Fintek was hiring Arik Maimon to act as a</p> <p>11 broker?</p> <p>12 MR. RAKHUNOV: Objection.</p> <p>13 THE WITNESS: I don't know if you</p> <p>14 want to say that, but he was paid by</p> <p>15 Adorama, not by me.</p> <p>16 BY MR. SPERBER:</p> <p>17 Q. Well, is that what it says here?</p> <p>18 A. It doesn't say here, but if you</p> <p>19 check the bank accounts and records, I paid him</p> <p>20 nothing. They paid him 200,000.</p> <p>21 Q. When you say they paid him, I mean,</p> <p>22 paid him for what?</p> <p>23 A. I don't know. They loaned him money</p> <p>24 for something else. They gave him 200,000 as a</p> <p>25 gift. They sent him \$200,000, when they never</p>	<p style="text-align: right;">Page 267</p> <p>1 relationship with, we wanted to make sure</p> <p>2 nothing went wrong with the relationship and</p> <p>3 were willing to pay extra expenses to make sure</p> <p>4 everything went smoothly.</p> <p>5 Q. So what services was he provided to</p> <p>6 Rock Fintek?</p> <p>7 A. To make sure that there was no fraud</p> <p>8 or any wrongdoing done to us from Adorama or</p> <p>9 Kitchen Winners.</p> <p>10 Q. Again, what was he going to do?</p> <p>11 A. He was just going to be</p> <p>12 communicating with them and making sure that we</p> <p>13 got everything they said they were going to</p> <p>14 give us.</p> <p>15 And there was a lot of communication</p> <p>16 problems.</p> <p>17 Q. That came around after you hired</p> <p>18 him; right?</p> <p>19 A. That was to be safe. And then</p> <p>20 after, he ended up doing more communication,</p> <p>21 actually, than safety control, I'd say.</p> <p>22 Q. What -- why didn't Rock Fintek pay</p> <p>23 him?</p> <p>24 A. Because all the product we bought</p> <p>25 was not the product we paid for.</p>
<p style="text-align: right;">Page 266</p> <p>1 knew who he was before.</p> <p>2 Q. How do you know they didn't know who</p> <p>3 he was?</p> <p>4 A. Well, maybe they were cousins and</p> <p>5 they grew up together. I presume they didn't</p> <p>6 know each other very well.</p> <p>7 Q. What do you base that on?</p> <p>8 A. What do I base it on?</p> <p>9 Q. Yep.</p> <p>10 MR. RAKHUNOV: Which part?</p> <p>11 MR. SPERBER: He just testified that</p> <p>12 he presumes they didn't know each other; so</p> <p>13 I'm just trying to understand where that</p> <p>14 came from.</p> <p>15 THE WITNESS: I don't believe that</p> <p>16 he ever spoke to them before. I told him</p> <p>17 who they were.</p> <p>18 BY MR. SPERBER:</p> <p>19 Q. So why did Rock Fintek hire him to</p> <p>20 act as a broker in this transaction if he</p> <p>21 didn't even know them?</p> <p>22 A. He said he could help with the deal</p> <p>23 and make sure it's going to be safe and secure.</p> <p>24 And because we have a very large client and we</p> <p>25 have a very delicate -- not delicate but strong</p>	<p style="text-align: right;">Page 268</p> <p>1 Q. Did -- did this letter of intent lay</p> <p>2 out Rock Fintek's understanding of the</p> <p>3 transaction with Adorama and Kitchen Winners?</p> <p>4 MR. RAKHUNOV: Objection.</p> <p>5 THE WITNESS: No. This transaction</p> <p>6 was made -- this document was made by Arik</p> <p>7 Maimon and was given to us and he just</p> <p>8 said, "Just sign it. Just sign it so I</p> <p>9 have something in writing."</p> <p>10 BY MR. SPERBER:</p> <p>11 Q. So -- okay. So Rock Fintek did sign</p> <p>12 it?</p> <p>13 A. Yes. It appears to be Bradley</p> <p>14 Gilling's signature.</p> <p>15 Q. Okay. When is the last time you</p> <p>16 spoke with Mr. Maimon?</p> <p>17 A. Beginning of this year, last year.</p> <p>18 Q. What did you speak about?</p> <p>19 A. What was that?</p> <p>20 Q. What did you speak about?</p> <p>21 A. What did we speak about?</p> <p>22 Q. Yes.</p> <p>23 A. Getting together, having dinner,</p> <p>24 starting to talk more.</p> <p>25 Q. You wanted to do business with him</p>

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<p style="text-align: right;">Page 269</p> <p>1 again?</p> <p>2 A. Absolutely not.</p> <p>3 Q. So what was the purpose of getting</p> <p>4 dinner?</p> <p>5 A. I bumped into him at a restaurant.</p> <p>6 I didn't call him. The conversation was,</p> <p>7 "Let's get together and have dinner." I said</p> <p>8 no.</p> <p>9 Q. How do you know Arik Maimon?</p> <p>10 A. I met him through a dinner I was</p> <p>11 invited to with him and his wife, with a group</p> <p>12 of people -- with a large --</p> <p>13 Q. Have you ever done business with him</p> <p>14 before?</p> <p>15 A. Nope.</p> <p>16 Q. This is the only transaction you</p> <p>17 ever did business with him on?</p> <p>18 A. Correct.</p> <p>19 Q. When did you inform Adorama or</p> <p>20 Kitchen Winners that Rock Fintek's</p> <p>21 representatives were prohibited by COVID-19</p> <p>22 protocols from physically inspecting the</p> <p>23 products that it was purchasing?</p> <p>24 A. When did we inform Ascension?</p> <p>25 Q. When did you tell Adorama or</p>	<p style="text-align: right;">Page 271</p> <p>1 A. People weren't allowed outside their</p> <p>2 house. They had to get a pass sometimes, in</p> <p>3 some cities, just to walk the dog. You don't</p> <p>4 remember that?</p> <p>5 Q. Did Rock Fintek ever make a request</p> <p>6 to Adorama or Kitchen Winners to let them look</p> <p>7 at the gloves before picking them up?</p> <p>8 A. To look at the gloves?</p> <p>9 Q. Yes.</p> <p>10 A. We tried to, yes. I think the one</p> <p>11 time, we had a representative, Mrs. Lee,</p> <p>12 examine them. And then in LA at their</p> <p>13 warehouse, I think we tried to get someone to</p> <p>14 look at them. I don't think we ever did.</p> <p>15 Q. Is there a request in writing</p> <p>16 somewhere or email, for example, saying, "We</p> <p>17 want to look at the gloves before we pick them</p> <p>18 up"?</p> <p>19 A. I'm sure it's in -- it was on phone</p> <p>20 calls. Maybe it's on some documentation that</p> <p>21 Phillip submitted, in text messages, SMSes.</p> <p>22 Q. Mrs. Lee examined whose gloves?</p> <p>23 Kitchen Winners or JNS?</p> <p>24 A. I think it's only JNS. I don't</p> <p>25 think she examined any others, but they're all</p>
<p style="text-align: right;">Page 270</p> <p>1 Kitchen Winners?</p> <p>2 A. Well, they knew we couldn't examine</p> <p>3 the products.</p> <p>4 Q. Well, they had agreed in the</p> <p>5 contract to let you inspect them before picking</p> <p>6 them up. So do --</p> <p>7 A. They wrote a lot of things in the</p> <p>8 contract that they didn't follow.</p> <p>9 Q. So then why didn't you walk away</p> <p>10 from the deal?</p> <p>11 A. I didn't realize that till later.</p> <p>12 Q. Wasn't it right there in the</p> <p>13 contract, you had this right?</p> <p>14 A. Yeah, it was, but I didn't have much</p> <p>15 choice but to buy gloves from them and trust</p> <p>16 that they were giving me the proper gloves.</p> <p>17 Q. You bought, what, \$20 million from</p> <p>18 them, little less?</p> <p>19 A. Yes, sir.</p> <p>20 Q. And you never once thought to take a</p> <p>21 look at what you were buying?</p> <p>22 A. We were not allowed to during COVID.</p> <p>23 You don't -- do you remember what happened</p> <p>24 during COVID?</p> <p>25 Q. Did you ever --</p>	<p style="text-align: right;">Page 272</p> <p>1 MedCare. They were all the same type of glove,</p> <p>2 more or less, minus the ones with the stickered</p> <p>3 boxes.</p> <p>4 Q. You're saying some of them were</p> <p>5 protection and some were examination; right?</p> <p>6 A. Half the gloves came in were</p> <p>7 protection. Half were examination.</p> <p>8 Q. Wouldn't you have known that if</p> <p>9 you --</p> <p>10 A. Nothing -- no, I would not have</p> <p>11 known that.</p> <p>12 Q. Why not?</p> <p>13 A. Because I don't know what an</p> <p>14 examination glove is going to look and feel</p> <p>15 like. I'm not a glove expert.</p> <p>16 Q. I think you said earlier, it says on</p> <p>17 the box; right?</p> <p>18 A. It says on the box. That doesn't</p> <p>19 mean that's what's in the box, as you can look</p> <p>20 up Adorama and all their lawsuits that they</p> <p>21 have selling fake Nokia cameras, accused of all</p> <p>22 those. They sell things in boxes that are not</p> <p>23 what's in the box.</p> <p>24 Q. So it's possible that inside the</p> <p>25 protection boxes, they're actually examination</p>

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<p style="text-align: right;">Page 273</p> <p>1 gloves?</p> <p>2 MR. RAKHUNOV: Objection.</p> <p>3 THE WITNESS: There was no</p> <p>4 examination gloves in any of the boxes</p> <p>5 where any of them were tested. None of the</p> <p>6 gloves had nitrile.</p> <p>7 BY MR. SPERBER:</p> <p>8 Q. What kind of instructions did you</p> <p>9 give the trucking companies regarding examining</p> <p>10 the gloves when they were picking them up?</p> <p>11 Anything?</p> <p>12 A. I asked them to count them, to check</p> <p>13 them. They said they're not allowed to.</p> <p>14 Dimerco said no. Hershey Weiner wouldn't give</p> <p>15 me his trucking companies.</p> <p>16 Q. Did you ever think of arranging with</p> <p>17 another warehouse midway, so to speak, where</p> <p>18 you could access the gloves?</p> <p>19 A. You're not allowed to. They were</p> <p>20 sealed, and when they got -- they arrived, they</p> <p>21 broke the seal.</p> <p>22 Q. Weren't you the buyer?</p> <p>23 A. I was buying them and delivering</p> <p>24 them to somebody else. I cannot break the</p> <p>25 seal.</p>	<p style="text-align: right;">Page 275</p> <p>1 again, that's fine.</p> <p>2 MR. RAKHUNOV: All right. Let's</p> <p>3 take -- can we take a two-minute break?</p> <p>4 MR. SPERBER: Sure.</p> <p>5 THE WITNESS: I don't need a break.</p> <p>6 MR. RAKHUNOV: No, no, no. I do.</p> <p>7 THE WITNESS: Fine.</p> <p>8 MR. RAKHUNOV: I do. Off the</p> <p>9 record.</p> <p>10 (Break taken from 4:13 p.m. to</p> <p>11 4:19 p.m.)</p> <p>12 MR. RAKHUNOV: All right. Let's</p> <p>13 move on.</p> <p>14 MR. SPERBER: Okay. Back on the</p> <p>15 record.</p> <p>16 BY MR. SPERBER:</p> <p>17 Q. Mr. Kato, I'm showing you again what</p> <p>18 was previously marked KWA-Kato 6, which are</p> <p>19 Rock Fintek's amended disclosures. Scroll down</p> <p>20 to page 4 out of 5?</p> <p>21 A. Okay.</p> <p>22 Q. Read that top paragraph there.</p> <p>23 A. "The Adorama Parties"?</p> <p>24 Q. Yeah.</p> <p>25 A. (Reviewing document.)</p>
<p style="text-align: right;">Page 274</p> <p>1 Q. According to who?</p> <p>2 A. According to me. I bought a glove</p> <p>3 from somebody. It's being delivered in seal to</p> <p>4 somebody else.</p> <p>5 Q. You're saying you chose not to look</p> <p>6 at the gloves?</p> <p>7 MR. RAKHUNOV: Objection.</p> <p>8 THE WITNESS: No. I could not look</p> <p>9 at the gloves because of COVID protocols.</p> <p>10 BY MR. SPERBER:</p> <p>11 Q. What would -- again, what would have</p> <p>12 stopped you from --</p> <p>13 A. COVID protocols.</p> <p>14 Q. -- having the truck deliver them to</p> <p>15 an independent warehouse and looking at them --</p> <p>16 A. COVID protocols -- COVID</p> <p>17 protocols -- you're asking the same question</p> <p>18 100 times.</p> <p>19 MR. RAKHUNOV: Thomas, let him</p> <p>20 finish the question, and I'll object.</p> <p>21 THE WITNESS: He's asking the same</p> <p>22 stupid question. We've only got two hours</p> <p>23 and 20 minutes left. So -- well, two hours</p> <p>24 and 34 minutes left. So if he wants to ask</p> <p>25 the same stupid question over and over</p>	<p style="text-align: right;">Page 276</p> <p>1 Okay.</p> <p>2 Q. Can you explain to me Rock Fintek's</p> <p>3 claim for a rebate?</p> <p>4 A. Because we purchased everything like</p> <p>5 we said we were going to and make payments like</p> <p>6 we said we were going to.</p> <p>7 Q. And that, you think, entitles you to</p> <p>8 a rebate?</p> <p>9 A. Yes, per -- the price was originally</p> <p>10 \$11. They switched it and added \$0.50 to us</p> <p>11 and said they'll give it back to us as a rebate</p> <p>12 later.</p> <p>13 Q. I'm going to show you what was</p> <p>14 previously marked as KWA-Kato 5, which is the</p> <p>15 Sales and Purchase Agreement.</p> <p>16 If you take a look on page 2 at the</p> <p>17 bottom, the last paragraph is titled "Rebate."</p> <p>18 Do you see where that is?</p> <p>19 A. Yes.</p> <p>20 Q. Can you just read through that to</p> <p>21 yourself.</p> <p>22 A. (Reviewing document.)</p> <p>23 Okay.</p> <p>24 Q. So am I correct that in order to be</p> <p>25 entitled to a rebate, Rock Fintek had to make</p>

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<p style="text-align: right;">Page 277</p> <p>1 the payments due under the contract timely?</p> <p>2 A. Correct.</p> <p>3 Q. Okay. If you look on -- at the top</p> <p>4 paragraph on that same page, starts with the</p> <p>5 letter "d.," and then the last sentence over</p> <p>6 there says, "Payments are considered timely if</p> <p>7 wire confirmation is made within 48 hours</p> <p>8 (excluding Saturday and Sunday) from product</p> <p>9 availability at Seller's Los Angeles</p> <p>10 warehouse."</p> <p>11 Do you see where that is?</p> <p>12 A. Yes.</p> <p>13 Q. Did Rock Fintek make the payments</p> <p>14 timely hereunder?</p> <p>15 A. Yes, it did.</p> <p>16 Q. Okay.</p> <p>17 A. Except when they gave us LevMed</p> <p>18 gloves, which they gave us the wrong gloves,</p> <p>19 which delayed our payments of accepting</p> <p>20 payment, which we explained --</p> <p>21 Q. Rock Fintek --</p> <p>22 A. -- which we explained to them and</p> <p>23 they accepted.</p> <p>24 Q. Rock Fintek agreed, though, that it</p> <p>25 was going to count the LevMed gloves towards</p>	<p style="text-align: right;">Page 279</p> <p>1 A. I would have to check the statements</p> <p>2 on what dates we sent funds and exact amount.</p> <p>3 Q. That deposit, that was going to go</p> <p>4 to the last 5.6 containers; right? That's what</p> <p>5 it says at the bottom of that paragraph?</p> <p>6 A. "The Deposit shall be applied as</p> <p>7 payment in full for the last approximately 5.6</p> <p>8 containers," correct.</p> <p>9 Q. So I'm going to show you -- I</p> <p>10 created a chart. This is my creation; so take</p> <p>11 that for what it is, but it's going through</p> <p>12 payments back and forth. I'm going to share it</p> <p>13 with you.</p> <p>14 And what are we up to? I think</p> <p>15 we're on Number 9. Make this KWA-Kato 9.</p> <p>16 (Exhibit Number KWA-Kato 9, Chart</p> <p>17 Created by Alexander Sperber, was marked</p> <p>18 for identification.)</p> <p>19 BY MR. SPERBER:</p> <p>20 Q. This is a chart that I created to</p> <p>21 try and keep track of the balance. And as far</p> <p>22 as I can tell, Rock Fintek was routinely and,</p> <p>23 you know, in a growing sense, behind on its</p> <p>24 payments to Kitchen Winners and/or Adorama.</p> <p>25 What am I missing here?</p>
<p style="text-align: right;">Page 278</p> <p>1 the total in the contract; right?</p> <p>2 A. This was in the beginning of it, of</p> <p>3 the order. And when they sent us LevMed</p> <p>4 gloves, we said, "Because of the LevMed, it's</p> <p>5 delaying us from receiving a payment from our</p> <p>6 hospital client, which in return, because of</p> <p>7 your mistake, is causing a delay in this."</p> <p>8 Q. So if you look on page 1 under</p> <p>9 "Payment Terms" -- you see where that is?</p> <p>10 A. Payment -- under 1?</p> <p>11 Q. Yeah. Page 1, paragraph 2.</p> <p>12 A. Okay.</p> <p>13 Q. 2.a. says: "On the date hereof,</p> <p>14 Buyer shall wire to an account designated by</p> <p>15 Seller the sum of \$1.25 million (the 'First</p> <p>16 Deposit')"</p> <p>17 A. Yes.</p> <p>18 Q. Did Rock Fintek do that?</p> <p>19 A. I have to check the dates when we</p> <p>20 sent.</p> <p>21 Q. Then it says: "On April 26, 2021,</p> <p>22 and prior to the Shipment of any Products in</p> <p>23 Tranche 3, Buyer shall wire to an account</p> <p>24 designated by the Seller the sum of \$600,000."</p> <p>25 Did Rock Fintek do that?</p>	<p style="text-align: right;">Page 280</p> <p>1 A. Adorama delivered and</p> <p>2 Kitchen Winners delivered LevMed gloves, which</p> <p>3 delayed our entire process and all of our</p> <p>4 orders.</p> <p>5 Q. If you look, the numbers in the</p> <p>6 negative column keep growing; right? You know,</p> <p>7 May 26 you're, what, four and a half million</p> <p>8 dollars behind?</p> <p>9 A. From your numbers, I owe them</p> <p>10 2.2 million, if you look at the very bottom.</p> <p>11 MR. RAKHUNOV: Yeah, and, you know,</p> <p>12 note my objection to -- obviously to the</p> <p>13 use of this summary exhibit that, you know,</p> <p>14 we haven't had a chance to vet or confirm</p> <p>15 the accuracy of, but --</p> <p>16 MR. SPERBER: That's fine. I just</p> <p>17 want to say -- I'll be very upfront. I</p> <p>18 created this.</p> <p>19 MR. RAKHUNOV: No, understood. I</p> <p>20 appreciate that. Go ahead.</p> <p>21 MR. SPERBER: Yeah.</p> <p>22 BY MR. SPERBER:</p> <p>23 Q. So I'm not going to make you take my</p> <p>24 numbers as anything because it's very</p> <p>25 possible -- maybe I made a mistake. So I'm not</p>

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<p style="text-align: right;">Page 281</p> <p>1 going to tell you that you have to take this on 2 its face. 3 But let me ask you straight up, 4 would you agree that if Rock Fintek was not 5 timely in its payments, it was not entitled to 6 a rebate under the contract? 7 MR. RAKHUNOV: Objection. 8 THE WITNESS: If it was not timely 9 because of something that Adorama or 10 Kitchen Winners did, then, yes, I would 11 agree to that. 12 BY MR. SPERBER: 13 Q. How do I know, you know, which of 14 your late payments are as a result of the 15 LevMed issue? 16 A. We told them that this caused a 17 problem. 18 Q. It delayed you? 19 A. It delayed it significantly. 20 Q. So how did that alter your cash 21 flow? 22 A. Delayed us by weeks of collecting 23 payments. And every shipment after that, 24 everything was delayed. 25 Q. Okay. But --</p>	<p style="text-align: right;">Page 283</p> <p>1 A. All of them. All the following 2 shipments after that. 3 Q. Why? Explain that to me. 4 A. Because they had the wrong product 5 with the wrong SKU, and they stopped paying us 6 for other shipments that were already on the 7 way that we already paid for. 8 Q. So Ascension stopped paying you on 9 time -- 10 A. Correct. 11 Q. -- forever -- 12 A. Until -- 13 Q. -- because he delivered the wrong 14 thing? 15 A. Nope. Until we got the 16 documentation, the LevMed documentation, and 17 they were going to accept or reject them 18 formally, then things continued. But -- they 19 continued, but everything was behind. 20 If the LevMed incident didn't 21 happen, we would have never been late. 22 Q. Oy any of the payments? 23 A. On any of the payments. 24 Q. You have to explain that to me. I 25 don't understand how the LevMed incident caused</p>
<p style="text-align: right;">Page 282</p> <p>1 A. Back up my order. 2 Q. Weren't you paying Adorama and/or 3 Kitchen Winners when you were picking -- right 4 until you picked up gloves? 5 A. I was paying them partial payment 6 and then getting other payment from Ascension 7 and paying them. 8 Q. Is it true that the money that you 9 would owe to Adorama and Kitchen Winners, that 10 number would grow when you'd pick up more 11 gloves; correct? 12 A. Correct. 13 Q. Then it would decrease as you'd pay 14 for the gloves you picked up? 15 A. Correct. 16 Q. So your -- other than the deposits, 17 your responsibility to pay only kicked in when 18 you picked up gloves; right? 19 A. I don't understand the question. 20 Q. I'm trying to understand. How did 21 the LevMed issue cause you to be behind on 22 payments? 23 A. It delayed us collecting payments 24 from Ascension. 25 Q. For which shipments?</p>	<p style="text-align: right;">Page 284</p> <p>1 you to be late on entirely unrelated shipments. 2 A. It delayed every shipment after that 3 we were sending. 4 Q. Why did you pick up gloves if you 5 couldn't afford to pay for them on time? 6 A. We picked up gloves and delivered 7 them. As we delivered, we'd get paid. As we'd 8 get paid, we'd pay them. 9 Q. You had a contract where you agree 10 that you would pay within a certain amount of 11 time of picking up gloves; correct? 12 A. We had a contract to pick up nitrile 13 gloves. We got no nitrile gloves. We had an 14 agreed contract for MedCare gloves, and we got 15 LevMed gloves. 16 Q. Were you paying on time before the 17 LevMed issue? 18 A. Before the LevMed issue, everything 19 was right on schedule. It was right in the 20 beginning. 21 Q. So you're saying you were on time 22 for the first -- I don't know -- five 23 shipments, let's say? 24 A. What day does it say in your record 25 that I paid, and what day does it say we're</p>

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<p style="text-align: right;">Page 285</p> <p>1 supposed to pay? Then we can see what it says.</p> <p>2 And everything in the very beginning was</p> <p>3 discussed with Kitchen Winners and with</p> <p>4 Adorama. And it was accepted, and we were</p> <p>5 still getting a rebate.</p> <p>6 Q. I'm sorry. Could you explain that?</p> <p>7 A. Everything was discussed with</p> <p>8 Adorama and Kitchen Winners from the incident</p> <p>9 that happened, and we were still supposed to be</p> <p>10 collecting a rebate.</p> <p>11 Q. Is that in writing somewhere?</p> <p>12 A. That's -- might be in some messages.</p> <p>13 For sure was on several phone calls.</p> <p>14 Q. Can you point me to a document where</p> <p>15 Adorama and/or Kitchen Winners agreed that even</p> <p>16 though you were late in payments they would</p> <p>17 still give you a rebate?</p> <p>18 A. Because of what they did with</p> <p>19 LevMed. They said this is what caused this,</p> <p>20 and it was acceptable.</p> <p>21 Q. But you can't point me to a specific</p> <p>22 document?</p> <p>23 A. No. I don't have an exact document.</p> <p>24 Q. Who was on those calls?</p> <p>25 A. Brad Gilling and I.</p>	<p style="text-align: right;">Page 287</p> <p>1 completely damaged.</p> <p>2 Q. How many of the pallets were labeled</p> <p>3 with the name of the seller on it?</p> <p>4 A. How many? Most of them had some</p> <p>5 type of a sticker on them, sticker or piece of</p> <p>6 paper on them.</p> <p>7 Q. But not all of them?</p> <p>8 A. I believe all of them had something</p> <p>9 on them, some type of QR code or bar code with</p> <p>10 the name on it.</p> <p>11 Q. That said the name of the seller?</p> <p>12 A. There was nothing that was just</p> <p>13 wrapped in plastic without anything.</p> <p>14 Q. Sorry?</p> <p>15 A. There was nothing that was just</p> <p>16 wrapped in plastic without anything on it.</p> <p>17 Q. So in -- when things started to fall</p> <p>18 apart with Ascension, I think you were saying</p> <p>19 earlier that was taking up all your time trying</p> <p>20 to resolve the issue; is that correct?</p> <p>21 A. Yes.</p> <p>22 Q. So what were you spending your time</p> <p>23 doing?</p> <p>24 A. Trying to get MedCare to replace the</p> <p>25 gloves, trying to get Adorama and</p>
<p style="text-align: right;">Page 286</p> <p>1 Q. And who else?</p> <p>2 A. Either Henry -- either Hershey</p> <p>3 Weiner or Mendel.</p> <p>4 Q. Mendel Banon?</p> <p>5 A. Yeah, Mendel Banon.</p> <p>6 MR. RAKHUNOV: Before we keep going,</p> <p>7 can -- I think Mr. Gilling's trying to get</p> <p>8 in, and it's not letting him in.</p> <p>9 MR. SPERBER: Should we keep going,</p> <p>10 or are we waiting?</p> <p>11 MR. RAKHUNOV: I just wanted to let</p> <p>12 the court reporter know if -- I don't know</p> <p>13 if there's something that needs to be done.</p> <p>14 (Comments off the record.)</p> <p>15 MR. RAKHUNOV: Let's keep going.</p> <p>16 I'll give -- I have the support number for</p> <p>17 him. He can do that himself.</p> <p>18 MR. SPERBER: Okay.</p> <p>19 BY MR. SPERBER:</p> <p>20 Q. Was there ever a time when</p> <p>21 Rock Fintek delivered gloves to Medline and</p> <p>22 Medline refused to accept them?</p> <p>23 A. I don't think so. They refused</p> <p>24 to -- they refused one set of gloves, I believe</p> <p>25 back in January, because they were damaged,</p>	<p style="text-align: right;">Page 288</p> <p>1 Kitchen Winners to give us the specifications</p> <p>2 for all the gloves. They wouldn't give them to</p> <p>3 us.</p> <p>4 Q. Let me back up.</p> <p>5 What did you do to try and get</p> <p>6 MedCare to replace the gloves?</p> <p>7 A. Asked MedCare to return the gloves.</p> <p>8 These are for hospitals. They need real</p> <p>9 examination gloves with nitrile in them.</p> <p>10 And they said they're not -- we're</p> <p>11 not their customer. Their customer was</p> <p>12 Kitchen Winners/Adorama. So we have to deal</p> <p>13 with them.</p> <p>14 But then later they said maybe</p> <p>15 they'll help us and send us a container, which</p> <p>16 they never did.</p> <p>17 Q. Okay. And what did you do vis-à-vis</p> <p>18 Adorama?</p> <p>19 A. What was that?</p> <p>20 Q. What did you do with -- you know,</p> <p>21 with regard to Adorama after the thing fell</p> <p>22 apart?</p> <p>23 A. What did I do with Adorama?</p> <p>24 Q. Yeah. Did you reach out to them?</p> <p>25 A. Yeah. I told them, "Return all the</p>

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<p>Page 289</p> <p>1 gloves. I want to return all the gloves to 2 you."</p> <p>3 Q. Who did you tell that to?</p> <p>4 A. I don't remember. Hershey and 5 Mendel.</p> <p>6 Q. And what did they say in return?</p> <p>7 A. I believe Hershey Weiner threatened 8 to come kill Bradley or bury his body in his 9 front lawn or something. I don't remember the 10 words that he used, but it was a threat which 11 Brad took very serious.</p> <p>12 Q. Okay.</p> <p>13 A. He threatened his life.</p> <p>14 Q. Did anyone from Adorama make any 15 kind of demands like that or threats?</p> <p>16 A. Hershey was from Adorama.</p> <p>17 Q. Did anyone else besides Hershey?</p> <p>18 A. No. I believe it was just Hershey 19 to Brad. And, again, Brad was scared for his 20 life, said, "If something happens to me, 21 Hershey's threatening to do something, and now 22 I'm scared."</p> <p>23 Q. What makes you think that Hershey 24 worked for Adorama?</p> <p>25 A. He said he did. He was out at the</p>	<p>Page 291</p> <p>1 Q. Did Mendlowitz ever make any kind of 2 written warranties about the gloves?</p> <p>3 A. Whatever warranties we had would be 4 from Adorama. So I don't know if he's the one 5 that wrote them or who wrote them.</p> <p>6 Q. Which warranties did you get in 7 writing?</p> <p>8 A. The agreement we signed.</p> <p>9 Q. And outside the agreement, anything 10 else?</p> <p>11 A. No. Numerous phone calls.</p> <p>12 Q. Okay. So what kind of oral 13 warranties did Mendlowitz make to you about the 14 gloves?</p> <p>15 A. They're going to give us the proper 16 gloves that were requested for the hospitals 17 for examination.</p> <p>18 Q. Okay. Anything else?</p> <p>19 A. No.</p> <p>20 Q. How did you know you were talking 21 with Mendlowitz?</p> <p>22 A. He said he was Mendlowitz. Maybe he 23 lied.</p> <p>24 Q. How do you know it wasn't someone 25 else on the phone who said he was Mendlowitz?</p>
<p>Page 290</p> <p>1 office there all the time working there, 2 calling.</p> <p>3 Q. Did anyone from Adorama tell you he 4 worked for Adorama?</p> <p>5 A. He said -- yeah, like, he was a 6 salesman, broker, partner. I don't know what 7 he was, but he represented himself as --</p> <p>8 Q. Did anyone else at Adorama tell you 9 that Hershey Weiner was a sales rep for them?</p> <p>10 A. The only people I spoke to was 11 Mendlowitz and Banon, and I didn't think he 12 could be -- you know, it is what it is. A man 13 that works for Adorama, Adorama's saying 14 they're going to bury somebody in their own 15 front yard, you know, like a gangster. Brad 16 said, "Maybe the guy's a real gangster. He's 17 going to come bury me in my front lawn."</p> <p>18 Q. What specifically did Mendlowitz 19 tell you about Kitchen Winners?</p> <p>20 A. Mendlowitz said specifically? I 21 believe it was they were a distribution; he was 22 a supplier and a source. He said that the 23 money -- we would wire money. We were doing 24 the deal directly with Adorama, and that was 25 pretty much it.</p>	<p>Page 292</p> <p>1 A. How do I know that for a fact? I 2 don't know. Maybe I wasn't talking to Hershey 3 Weiner or Mendel Banon either.</p> <p>4 Q. I'm just trying to say -- you're 5 suing Joseph Mendlowitz here. I'm trying to 6 say, how do you know --</p> <p>7 A. If a man says he is who he is, then 8 I take it as his word. How do I know who 9 Hershey Weiner is?</p> <p>10 Q. How do you know Hershey Weiner 11 wasn't on the phone saying his name was 12 Mendlowitz?</p> <p>13 MR. RAKHUNOV: Objection.</p> <p>14 THE WITNESS: I don't know.</p> <p>15 Committed a fraud once. Maybe they're 16 doing it again. Possible.</p> <p>17 BY MR. SPERBER:</p> <p>18 Q. Did you ever do a Zoom call with 19 either of these people?</p> <p>20 A. We might have had a Zoom call 21 together. I'd have to ask Bradley. I can't 22 remember.</p> <p>23 Q. When you had these calls, how did 24 you do it? Was it a call-in number, or was 25 it --</p>

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<p>Page 293</p> <p>1 A. Did mostly WhatsApp.</p> <p>2 Q. WhatsApp. Okay.</p> <p>3 So if you were calling Mendlowitz,</p> <p>4 you called him via WhatsApp?</p> <p>5 A. Or a voice call in our office on a</p> <p>6 speaker box.</p> <p>7 Q. Who would you be calling?</p> <p>8 A. I'd be calling the Adorama office</p> <p>9 and talking to Mendel, Weiner, and Mendlowitz.</p> <p>10 Q. Okay. Were these calls on a cell</p> <p>11 phone or a land line?</p> <p>12 A. Cell phone -- cell phone. I believe</p> <p>13 most of them are cell phone.</p> <p>14 Q. Okay. What's your phone number that</p> <p>15 you were using?</p> <p>16 A. My number was -- my mobile number?</p> <p>17 Q. Yeah.</p> <p>18 A. I don't want to have my mobile</p> <p>19 number all over the Internet.</p> <p>20 Q. That's fine. It's just -- it's not</p> <p>21 going to -- look, I'm going to -- I'm going to</p> <p>22 be subpoenaing your phone records. So I want</p> <p>23 to understand what's your phone number and</p> <p>24 what's the -- what is the --</p> <p>25 A. No, no. I don't remember what phone</p>	<p>Page 295</p> <p>1 A. I used WhatsApp or I used Zoom.</p> <p>2 It's not my phone number.</p> <p>3 Q. It's not your phone number. Okay.</p> <p>4 So either WhatsApp or Zoom.</p> <p>5 So if they were Zoom links, were you</p> <p>6 sent the link via email?</p> <p>7 A. I would have sent it; they would</p> <p>8 have sent it to us.</p> <p>9 MR. SPERBER: Okay. So I'm going to</p> <p>10 call for production of any Zoom links that</p> <p>11 were sent to -- to or from Mr. Kato</p> <p>12 concerning phone calls with Adorama.</p> <p>13 BY MR. SPERBER:</p> <p>14 Q. And you said the rest of it would</p> <p>15 have been via WhatsApp?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And, again, any WhatsApp</p> <p>18 records that reflect phone calls with</p> <p>19 Mr. Mendlowitz or anyone else at Adorama.</p> <p>20 Okay. Let's move on.</p> <p>21 You mentioned earlier that part of</p> <p>22 the reason why Rock Fintek didn't get paid was</p> <p>23 because it had oversupplied gloves to -- to</p> <p>24 Ascension; is that correct?</p> <p>25 A. We didn't get paid because we didn't</p>
<p>Page 294</p> <p>1 I called him from.</p> <p>2 Q. So what are the options?</p> <p>3 A. Maybe it was a Zoom call or would</p> <p>4 have been a WhatsApp call. It was -- I'm not</p> <p>5 sure.</p> <p>6 Q. So let's start with -- give me the</p> <p>7 phone numbers that you might have been using.</p> <p>8 A. Zoom or WhatsApp.</p> <p>9 MR. RAKHUNOV: We're going to</p> <p>10 designate this portion of the transcript as</p> <p>11 confidential under the protective order.</p> <p>12 MR. SPERBER: You think his phone</p> <p>13 numbers are confidential?</p> <p>14 THE WITNESS: Yeah. I don't want my</p> <p>15 number all over the Internet.</p> <p>16 MR. RAKHUNOV: His personal phone</p> <p>17 number is confidential.</p> <p>18 MR. SPERBER: Well, at some point</p> <p>19 I'll motion to the Court about that. But</p> <p>20 okay. That's fine. You can designate this</p> <p>21 however you want, and we'll have to resolve</p> <p>22 it later on.</p> <p>23 BY MR. SPERBER:</p> <p>24 Q. What were the phone numbers that you</p> <p>25 were using?</p>	<p>Page 296</p> <p>1 get the correct gloves.</p> <p>2 Q. Okay. So it's not true you</p> <p>3 delivered more gloves than \$200 million -- 200</p> <p>4 million gloves in --</p> <p>5 A. We delivered more gloves, and the</p> <p>6 gloves were not the correct gloves.</p> <p>7 Q. So would it be accurate to say that</p> <p>8 part of the reason why you weren't paid for all</p> <p>9 the gloves you delivered is because you</p> <p>10 delivered more gloves than Ascension had agreed</p> <p>11 to pay you for?</p> <p>12 A. No. I would say it's because they</p> <p>13 were not the gloves that they wanted. I'm sure</p> <p>14 they would have kept them and used them if they</p> <p>15 were the right quality gloves.</p> <p>16 Q. How many gloves did you -- how many</p> <p>17 MedCare gloves did you deliver to Ascension?</p> <p>18 A. Say about 1.9 million.</p> <p>19 MR. RAKHUNOV: Is that gloves or</p> <p>20 boxes?</p> <p>21 BY MR. SPERBER:</p> <p>22 Q. Cartons?</p> <p>23 A. Or cartons. Sorry. Maybe 190</p> <p>24 million.</p> <p>25 MR. SPERBER: All right. Let's go</p>

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<p>Page 297</p> <p>1 off the record. Let me just take a break. 2 I may be almost done here. 3 MR. RAKHUNOV: Okay. 4 (Break taken from 4:45 p.m. to 5 4:51 p.m.) 6 MR. SPERBER: Back on the record. 7 BY MR. SPERBER: 8 Q. Okay. Just a couple more things. 9 You had mentioned earlier that Kitchen Winners 10 would sometimes directly deliver gloves to 11 Medline. When that happened, how did you know 12 how much to get paid by Ascension? 13 A. We presumed whatever the order said 14 is what we were getting paid. 15 Q. What order? 16 A. Whatever that Adorama or 17 Kitchen Winners told us was being delivered, we 18 presumed that's what we were getting. 19 Q. So you just trusted them. You 20 didn't check yourself? 21 A. No. We couldn't check ourselves 22 because of COVID protocol. 23 Q. And you trusted Medline to 24 accurately count and tell you the numbers? 25 A. Yes.</p>	<p>Page 299</p> <p>1 don't see other things really concerning 2 LevMed. Not much, at least. This is when it 3 started. 4 If you go back to the chart that I 5 had created and I showed you and we marked 6 KWA-Kato 9, which I'll show you right now, it 7 appears that already by April 26 that 8 Rock Fintek was behind on its payments. 9 Can you explain that? 10 A. When was the LevMed incident? 11 Q. The 29th, at least according to the 12 emails that I had over there. 13 A. Maybe that's when the emails 14 started. 15 MR. RAKHUNOV: Let me just object to 16 that last comment. It's -- the 29th is 17 just the date of the email from Mr. Gilling 18 to Adorama. That doesn't mean it's the 19 date -- 20 MR. SPERBER: Okay. Let me ask. 21 BY MR. SPERBER: 22 Q. Do you have any independent 23 knowledge concerning when the LevMed thing 24 began? 25 A. I know that our payment schedule was</p>
<p>Page 298</p> <p>1 Q. Is it fair to say that you were 2 relying upon Medline in this whole thing to be 3 honest and accurate in their counts? 4 A. Yes. 5 Q. Was Medline doing a good job at the 6 time? 7 A. They seemed to be. 8 Q. They seemed on top of their game? 9 A. They seemed very -- they seemed at 10 the top of their game in the industry. 11 Q. Okay. I'm showing you what I 12 previously showed you, which was an email chain 13 that we marked KWA-Kato 4 regarding LevMed. 14 Do you recall? 15 A. Yeah. 16 Q. If you scroll down, you see a 17 discussion of it here concerning LevMed 18 dated -- if you go to the very bottom, this 19 whole thing starts April 29th. 20 Is that when LevMed blew up? 21 A. April -- I don't know. I'd have to 22 look or talk to Bradley about it. He was more 23 with the logistics. 24 Q. It seems from that email chain -- 25 and I looked through your production, and I</p>	<p>Page 300</p> <p>1 thrown off because of the LevMed glove scandal. 2 I don't recollect two years ago from today what 3 the date -- exact date was in time. But I know 4 what caused the problem was the LevMed. 5 Q. Did you come here today prepared to 6 discuss your damage claims? 7 A. I sure did. 8 Q. So why don't you have this 9 information in your head to explain? 10 MR. RAKHUNOV: Object. 11 THE WITNESS: I went through this, 12 and I don't have a photographic memory. 13 BY MR. SPERBER: 14 Q. Is there somewhere I could look to 15 figure out, you know, beyond the emails that I 16 have in your production already, when the 17 LevMed thing blew up? 18 A. The LevMed thing blew up -- for the 19 exact day it blew up? You have all of our 20 communications; so you should be able to see 21 everything. 22 Q. So if it exists, it's in there; 23 correct? 24 A. Yes. If it exists, that exists 25 there, but --</p>

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<p style="text-align: right;">Page 301</p> <p>1 MR. RAKHUNOV: Objection.</p> <p>2 THE WITNESS: Maybe it is. Maybe it</p> <p>3 isn't.</p> <p>4 BY MR. SPERBER:</p> <p>5 Q. Do you have Mr. Weiner's phone</p> <p>6 number?</p> <p>7 A. I don't know. Would you like me to</p> <p>8 check?</p> <p>9 Q. If your lawyer will let you check.</p> <p>10 If not, I'll call for the production of it.</p> <p>11 MR. RAKHUNOV: I'm not -- you know,</p> <p>12 you can make a -- you can make a request.</p> <p>13 I don't want the witness doing this on the</p> <p>14 record.</p> <p>15 MR. SPERBER: Okay.</p> <p>16 MR. RAKHUNOV: Seems inappropriate.</p> <p>17 MR. SPERBER: That's fine.</p> <p>18 THE WITNESS: I 100 percent have</p> <p>19 Mr. Banon's name.</p> <p>20 BY MR. SPERBER:</p> <p>21 Q. Okay. But you're not sure if you</p> <p>22 have Mr. Weiner's number?</p> <p>23 A. I'm not positive, no.</p> <p>24 Q. Okay. I'm going to call for the</p> <p>25 production of Mr. Weiner's phone number or any</p>	<p style="text-align: right;">Page 303</p> <p>1 A. We agreed to pick them up? I think</p> <p>2 they were going to ship them to us, and we were</p> <p>3 going to try to have Dimerco pick them up and</p> <p>4 deliver them.</p> <p>5 Q. All right. Well, let's take a look</p> <p>6 at KWA-Kato 5. That's the Sales and Purchase</p> <p>7 Agreement. If you go to page 2, the top</p> <p>8 paragraph seems to indicate --</p> <p>9 A. Which part? Which paragraph?</p> <p>10 Q. This is paragraph 2.d., which is the</p> <p>11 top paragraph on page 2.</p> <p>12 A. Okay.</p> <p>13 Q. Seems to indicate that you'd be</p> <p>14 picking up the gloves from Kitchen Winners'</p> <p>15 warehouse. No?</p> <p>16 MR. RAKHUNOV: Objection.</p> <p>17 THE WITNESS: Kitchen Winners and</p> <p>18 Adorama didn't have a warehouse. They said</p> <p>19 they rented them, is what we were told.</p> <p>20 And Dimerco picked up gloves from them and</p> <p>21 delivered them to us, or they had their own</p> <p>22 trucking company/freight company transport</p> <p>23 them to us.</p> <p>24 BY MR. SPERBER:</p> <p>25 Q. Take a look at paragraph 5,</p>
<p style="text-align: right;">Page 302</p> <p>1 contact information on your phone for</p> <p>2 Mr. Weiner.</p> <p>3 MR. RAKHUNOV: And, you know, just</p> <p>4 to make this easier for everybody so we</p> <p>5 don't have to -- you know, the witness</p> <p>6 testified he doesn't have perfect memory of</p> <p>7 every one of thousands of documents out</p> <p>8 there, but I'm happy to direct your</p> <p>9 attention to the WhatsApp chat with</p> <p>10 Mr. King, who on April 26 sent a message</p> <p>11 that "Jimmy from the warehouse just called</p> <p>12 me and told me that Mendel instructed him</p> <p>13 to load the trailer half and half with</p> <p>14 LevMed and MedCare gloves."</p> <p>15 So April 26 is the date that the</p> <p>16 LevMed issue seems to have originated,</p> <p>17 based on the record that you-all have, and</p> <p>18 hopefully that helps you. That actually</p> <p>19 came up in Mr. King's deposition. So . . .</p> <p>20 BY MR. SPERBER:</p> <p>21 Q. Now, Mr. Kato, am I correct in</p> <p>22 understanding that Rock Fintek agreed in</p> <p>23 contract with Kitchen Winners that it would</p> <p>24 pick up the gloves from Kitchen Winners' LA</p> <p>25 warehouse?</p>	<p style="text-align: right;">Page 304</p> <p>1 "Customs."</p> <p>2 "The Products shall be shipped by</p> <p>3 sea to the U.S. port of Long Beach. Seller</p> <p>4 shall import the Product, clear customs and pay</p> <p>5 taxes and duties. Buyer shall arrange for and</p> <p>6 pay the cost of ground transportation after</p> <p>7 customs clearance."</p> <p>8 Did Rock Fintek do that?</p> <p>9 A. Did Adorama bring them in and ship</p> <p>10 them by sea to the U.S. ports? I don't know</p> <p>11 where they source their products from, if they</p> <p>12 are --</p> <p>13 Q. What I'm asking is, did Rock Fintek</p> <p>14 arrange for and pay the cost of ground</p> <p>15 transportation after customs clearance?</p> <p>16 A. We said we'd pay the actual costs of</p> <p>17 whatever the ground transportation cost, and</p> <p>18 they never gave us an invoice. They just gave</p> <p>19 us numbers. They would not release the</p> <p>20 invoices to us. Until this day, we still don't</p> <p>21 have them.</p> <p>22 Q. Did you receive the invoices from a</p> <p>23 trucking company called Tonersworld?</p> <p>24 (Stenographer requests</p> <p>25 clarification.)</p>

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<p style="text-align: right;">Page 305</p> <p>1 THE WITNESS: Tonersworld. I don't</p> <p>2 recollect an invoice from a Tonersworld.</p> <p>3 Possibly, but I don't recollect it.</p> <p>4 BY MR. SPERBER:</p> <p>5 Q. How many employees does Rock Fintek</p> <p>6 have?</p> <p>7 A. I don't understand the definition of</p> <p>8 "employee."</p> <p>9 Q. Okay. How many people are on</p> <p>10 payroll at Rock Fintek?</p> <p>11 A. There's nobody on payroll.</p> <p>12 Q. Okay. How many contract employees</p> <p>13 does Rock Fintek have?</p> <p>14 A. Well, Brad Gilling --</p> <p>15 MR. RAKHUNOV: Now or when?</p> <p>16 BY MR. SPERBER:</p> <p>17 Q. Let's say during the time when</p> <p>18 Rock Fintek was engaged in these transactions.</p> <p>19 A. So we had Brad Gilling as chief</p> <p>20 operations officer as a contractor and Anna as</p> <p>21 bookkeeper/CFO at the time.</p> <p>22 Q. That's it?</p> <p>23 A. Yes. No longer, but at the time.</p> <p>24 Q. So let's just back up. What was</p> <p>25 your role in regards to Rock Fintek?</p>	<p style="text-align: right;">Page 307</p> <p>1 time, payments were sent out correctly,</p> <p>2 invoices were billed correctly.</p> <p>3 Q. What was Bradley Gilling's role in</p> <p>4 all this?</p> <p>5 A. Mostly was logistics, but he's</p> <p>6 operations.</p> <p>7 Q. Meaning what?</p> <p>8 A. Meaning he would manage and</p> <p>9 coordinate the logistics.</p> <p>10 Q. When you say "logistics," what are</p> <p>11 you referring to?</p> <p>12 A. Transportation.</p> <p>13 Q. So he was in charge of dealing with</p> <p>14 Dimerco?</p> <p>15 A. Or Adorama Kitchen Winners for their</p> <p>16 deliveries.</p> <p>17 Q. What were you paying Gilling for</p> <p>18 this?</p> <p>19 A. He was making 10 percent of whatever</p> <p>20 the company netted.</p> <p>21 Q. As of when?</p> <p>22 A. For the order.</p> <p>23 Q. Okay. So did he make a -- did he</p> <p>24 make any money off this?</p> <p>25 A. No. We lost money.</p>
<p style="text-align: right;">Page 306</p> <p>1 A. My role as Rock Fintek? I was</p> <p>2 trying to source products and find the clients</p> <p>3 and build the sales team.</p> <p>4 Q. And on a day-to-day basis, what were</p> <p>5 you doing in regard to these gloves</p> <p>6 transactions?</p> <p>7 A. I would solicit -- with the gloves?</p> <p>8 Q. Yeah.</p> <p>9 A. Communicating with Arik Maimon or</p> <p>10 Kitchen Winners or Adorama, status, shipments,</p> <p>11 tracking things, and communicating with Brad</p> <p>12 Gilling about the logistics and about what</p> <p>13 payments were received, what payments were</p> <p>14 going to be due.</p> <p>15 Q. Okay. You know, how many hours a</p> <p>16 day were you putting in when this was really,</p> <p>17 you know, at its peak?</p> <p>18 A. How many hours at its peak? 18</p> <p>19 hours a day.</p> <p>20 Q. Just for this?</p> <p>21 A. Just for this.</p> <p>22 Q. Doing -- what were you doing with</p> <p>23 all that time?</p> <p>24 A. We were just making sure everything</p> <p>25 was going to arrive on time, payments came on</p>	<p style="text-align: right;">Page 308</p> <p>1 Q. Okay. Let me -- so Rock Fintek paid</p> <p>2 you, let's say for argument's sake,</p> <p>3 \$35 million, somewhere in that range?</p> <p>4 A. Yes -- Rock Fintek paid me? No.</p> <p>5 Q. Ascension paid Rock Fintek somewhere</p> <p>6 around \$35 million?</p> <p>7 A. Correct.</p> <p>8 Q. For this PO?</p> <p>9 A. Correct.</p> <p>10 Q. And how much did Rock Fintek spent</p> <p>11 on procuring the gloves?</p> <p>12 A. 37 or 40.</p> <p>13 Q. Million?</p> <p>14 A. Yes.</p> <p>15 Q. So you -- you spent \$15 million more</p> <p>16 than -- so \$37 million to buy the gloves?</p> <p>17 A. 37 to 40 million.</p> <p>18 Q. \$40 million to buy gloves for a</p> <p>19 \$37 million contract?</p> <p>20 A. Correct.</p> <p>21 Q. Where did you find the cash -- you</p> <p>22 know the extra -- you know, several million</p> <p>23 dollars in cash?</p> <p>24 A. From previous product we sold to</p> <p>25 Ascension, the masks.</p>

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<p style="text-align: right;">Page 309</p> <p>1 Q. How much money did you pay to 2 Adorama and Kitchen Winners? 3 A. Approximately 20 million, 19 -- 4 Q. How much money -- I'm sorry? 5 A. 19 and a half. 6 Q. How much money did you pay to JNS or 7 Stern? 8 A. I don't remember the amount I paid 9 to JNS and Stern. I have to look. 10 Q. Beyond that, what were your other 11 expenses? 12 A. The bank statements will show 13 everything I paid everybody. 14 Q. I'm sorry? 15 A. The bank statements should show 16 everything. So when I read it on the bank 17 statement, I didn't think I'd try to memorize 18 it ten times to give you the exact amount 19 because you have the statements. 20 Q. What were your other major expenses? 21 A. Major expenses? Rent for the 22 office. Insurance was pretty heavy. Rent, 23 insurance. Legal was pretty extensive. So we 24 had, I'd say, 5 to 7 percent in operational 25 costs.</p>	<p style="text-align: right;">Page 311</p> <p>1 A. If I hadn't had the -- if Thailand 2 would have went through, I would have never 3 met -- spoken or met or spoke with JNS, 4 Joel Stern, Kitchen Winners, or Adorama. 5 Correct. 6 I had other reasons to try to work 7 with them. 8 Q. I'm sorry? 9 A. They seemed to be honest people when 10 I met them. 11 Q. Who? 12 A. Kitchen Winners and Adorama. 13 Q. When did you meet them? 14 A. When we spoke earlier in the year. 15 Told me we could take everything on a 16 handshake, don't even need the contracts. 17 Q. But you did have a contract; right? 18 A. We had a contract, but they said 19 their golden handshake is stronger than a 20 contract and don't worry about the contract. I 21 took them at their word. 22 Q. How much money did you -- 23 A. On top of the contracts. 24 (Stenographer requests 25 clarification.)</p>
<p style="text-align: right;">Page 310</p> <p>1 Q. Okay. 2 A. In rent. 3 Q. Let's say rough numbers, \$20 million 4 to Adorama, Kitchen Winners; right? I don't 5 know -- let's say \$3 million to Stern. Is that 6 ballpark? 7 A. I think it would be more, but you 8 can say three. 9 Q. Let's say five. Now we're talking 10 \$25 million. So where did the remaining -- 11 what's that? -- 12 million -- \$12 million-ish 12 go? 13 A. \$6-7 million for freight. 14 Q. That was Dimerco? 15 A. Yeah. 6.2 million to Thailand. 16 Q. How was Thailand related to this 17 transaction? 18 A. It was part of the same purchase 19 order. 20 Q. You didn't actually get any gloves; 21 right? That was -- 22 A. That was when I lost the money. 23 Then I paid him for this order. 24 Q. If you hadn't had the Thailand 25 situation, you would have made profit here?</p>	<p style="text-align: right;">Page 312</p> <p>1 BY MR. SPERBER: 2 Q. So in total, did Rock Fintek as an 3 enterprise make money or lose money? 4 A. It made money until we did this 5 transaction with Adorama and Kitchen Winners. 6 Q. But you lost money really on the 7 Thailand deal; right? 8 A. If they would have given us the 9 correct product and not taken the extra rebate, 10 Ascension would have paid us the extra and not 11 overshipped us, we would have been profitable, 12 or close to. And we would have got -- been 13 able to sell our test kits and other products 14 to them, continue the relationship we had. 15 Q. Let me show you again -- this is 16 KWA-Kato 6, the initial disclosures. If you go 17 to the last page, there's a paragraph that 18 starts -- second-to-last paragraph. Read 19 through that. This is on page 4? 20 A. "The Adorama Parties are also 21 liable"? 22 Q. Yeah. 23 A. (Reviewing document.) 24 Okay. 25 Q. So could you explain to me what</p>

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<p style="text-align: right;">Page 313</p> <p>1 you're asking for in this paragraph?</p> <p>2 A. The lawyer can explain that. It's a</p> <p>3 lot of legal words.</p> <p>4 Q. So you don't understand this?</p> <p>5 A. I don't understand all of it. It</p> <p>6 says figure detailed RF_ 0034- -- I don't know</p> <p>7 what he's referring to in all this stuff. So</p> <p>8 you can ask him.</p> <p>9 Q. You say that "The Adorama Parties</p> <p>10 are liable to Rock Fintek for 5,963 cartons of</p> <p>11 gloves beyond the contractually called for</p> <p>12 amount for which Rock Fintek overpaid."</p> <p>13 Right? You see that?</p> <p>14 A. Yep.</p> <p>15 Q. So could you explain -- what is this</p> <p>16 referring to?</p> <p>17 A. Rock Fintek -- "The Adorama Parties</p> <p>18 are also liable to Rock Fintek for . . . carton</p> <p>19 of gloves beyond the contractually called for</p> <p>20 amount" -- I don't know what he's -- they sent</p> <p>21 us too many. That's that it's -- the way it's</p> <p>22 worded, like I said.</p> <p>23 Q. So your claim is that Adorama or</p> <p>24 Kitchen Winners sent Rock Fintek approximately</p> <p>25 6,000 too many cartons of gloves, which you</p>	<p style="text-align: right;">Page 315</p> <p>1 shipping and office expenses that they had or</p> <p>2 the trucking expenses.</p> <p>3 Q. And did you pay it on time?</p> <p>4 A. We paid them. It was part of our</p> <p>5 payments we made. I just asked for invoices.</p> <p>6 I don't have the invoices for -- for that.</p> <p>7 Q. So of the \$2,034,070, how much is</p> <p>8 logistics?</p> <p>9 A. If you have Hershey Weiner give me</p> <p>10 the invoices, I'll tell you. Or maybe it's on</p> <p>11 those reports we're trying to put together. I</p> <p>12 don't know what they say.</p> <p>13 Q. When you paid those invoices that</p> <p>14 you're talking about, did you know what you</p> <p>15 were paying for?</p> <p>16 A. We paid --</p> <p>17 MR. RAKHUNOV: Objection.</p> <p>18 THE WITNESS: -- shipping for</p> <p>19 Hershey and Dimerco.</p> <p>20 BY MR. SPERBER:</p> <p>21 Q. I'm sorry?</p> <p>22 A. We aid for shipping to Dimerco, and</p> <p>23 we paid Adorama and Kitchen Winners for gloves.</p> <p>24 And --</p> <p>25 Q. And you're saying -- you're saying</p>
<p style="text-align: right;">Page 314</p> <p>1 paid for, and now you want a refund for that;</p> <p>2 is that right?</p> <p>3 A. They sent about -- yes, about 20</p> <p>4 million extra gloves. I don't know if it's 6</p> <p>5 million or 20 million, but we had about 20</p> <p>6 million too many.</p> <p>7 Q. And then the next line says, "The</p> <p>8 amount owed together with associated logistics</p> <p>9 costs is \$2,034,070."</p> <p>10 See that as well?</p> <p>11 A. Yeah. My claim is that they ruined</p> <p>12 my relationship with --</p> <p>13 Q. So are you asking for this money</p> <p>14 back also, or is this something -- you're not</p> <p>15 asking for this?</p> <p>16 A. From Ascension?</p> <p>17 Q. No, from Adorama and Kitchen Winners</p> <p>18 and Joseph Mendlowitz.</p> <p>19 A. I wanted my rebate back and the</p> <p>20 overpaid -- for the over amount of products</p> <p>21 they gave me which I didn't want and they</p> <p>22 refused to take back.</p> <p>23 Q. So what are the associated logistics</p> <p>24 that you're referring to over here?</p> <p>25 A. They charged us for insurance and</p>	<p style="text-align: right;">Page 316</p> <p>1 Kitchen Winners sent you invoices that included</p> <p>2 insurance and shipping and other things; is</p> <p>3 that right?</p> <p>4 A. Yes. They didn't --</p> <p>5 Q. And you paid those invoices?</p> <p>6 A. Yes. They said the shipping cost X</p> <p>7 for the trucks that they shipped. He was</p> <p>8 holding the gloves hostage unless we paid the</p> <p>9 unverified shipping costs.</p> <p>10 Q. And you paid them?</p> <p>11 A. Otherwise I wouldn't get the gloves</p> <p>12 delivered.</p> <p>13 Q. Okay. And now you're saying you</p> <p>14 weren't supposed to pay them?</p> <p>15 A. I was supposed to -- I agreed to pay</p> <p>16 the freight cost directly what they were. I</p> <p>17 was not given those freight costs.</p> <p>18 Q. So how much extra did you pay that</p> <p>19 you shouldn't have paid?</p> <p>20 A. It says \$2 million right here.</p> <p>21 Q. How much of that is for the gloves</p> <p>22 and how much of that is for the logistics that</p> <p>23 you're talking about?</p> <p>24 A. I guess you have to look at the</p> <p>25 detailed report, as noted there.</p>

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<p style="text-align: right;">Page 317</p> <p>1 Q. But you don't know off the top of 2 your head? 3 A. I looked at these, and I don't have 4 a photographic memory. I looked at them and 5 studied it yesterday with my attorney, and I 6 don't remember exactly it says. I looked at a 7 lot of documents yesterday and before to 8 prepare for this. 9 MR. RAKHUNOV: And I can just tell 10 you, Counsel, that the invoices from 11 Dimerco that have this information in 12 detail have been produced. They're -- I 13 can even tell you they're in the WhatsApp 14 chats with Mr. King. So -- among other 15 places. So you have all that information. 16 BY MR. SPERBER: 17 Q. All right. Let's back up. Are you 18 saying that Kitchen Winners or Adorama owes you 19 money because Dimerco -- you paid Dimerco money 20 to pick up gloves you didn't want? 21 A. Dimerco did shipping, along with 22 Adorama, of gloves. 23 Q. Are you saying that you want 24 Kitchen Winners and Adorama to reimburse you 25 for a portion of the Dimerco shipping fees you</p>	<p style="text-align: right;">Page 319</p> <p>1 Q. You're saying the truck was already 2 there. 3 A. They delivered -- 4 (Simultaneous speaking.) 5 CERTIFIED STENOGRAPHER: Excuse me. 6 Stop. Wait until the question's finished, 7 please. 8 THE WITNESS: Yes, ma'am. 9 BY MR. SPERBER: 10 Q. Did you hear the question or no? 11 A. No. 12 Q. You're saying the truck was already 13 there and that they just snuck more gloves on 14 than you knew about? 15 A. That's not what I said. I said they 16 delivered more gloves than I paid for. 17 Q. But you're also saying that you paid 18 Dimerco to pick those up; right? 19 A. I paid for -- let me reword it. 20 I paid -- they gave me more gloves 21 than I contracted them to give me, and they did 22 not tell me the amount of gloves they were 23 supposed to give me. 24 Q. But you picked them up from their 25 warehouse; right?</p>
<p style="text-align: right;">Page 318</p> <p>1 got charged? 2 A. I want them to reimburse me for the 3 overage of cartons and any expenses associated 4 with it. 5 Q. What expenses? 6 A. Whatever came across. 7 MR. RAKHUNOV: Objection. 8 BY MR. SPERBER: 9 Q. Name the expenses. 10 A. Shipping. 11 Q. Okay. 12 A. Insurance. 13 Q. If you pay someone to pick up gloves 14 from Adorama or Kitchen Winners -- 15 A. I didn't want those gloves. 16 Q. Let me ask the question. 17 If you pay someone to pick up gloves 18 from Adorama or Kitchen Winners, then you 19 decide you don't want them, why are they at 20 fault? 21 A. I didn't want the gloves. They 22 snuck them on the truck. 23 Q. How did they sneak them on the 24 truck? 25 A. They gave me miss -- wrong counts.</p>	<p style="text-align: right;">Page 320</p> <p>1 A. I didn't pick them up. Dimerco 2 picked them up. 3 Q. Okay. So why is it Adorama or 4 Kitchen Winners' responsibility to pay Dimerco 5 for your own screwup? 6 A. Adorama -- 7 MR. RAKHUNOV: Objection. 8 THE WITNESS: It was not my screwup. 9 If they didn't commit fraud, I wouldn't 10 have anything here. 11 Adorama and Kitchen Winners was 12 paying for freight and having products 13 delivered. I'll answer the question ten 14 more times the same way. Just keep asking 15 it. 16 BY MR. SPERBER: 17 Q. I will, because I'm not getting an 18 answer. I don't understand. 19 A. Great. Great. Kitchen Winners and 20 Adorama sent us freight order, and they didn't 21 give me their invoices. They sent me more 22 gloves than I wanted. 23 Q. And you weren't keeping your own 24 records of how many gloves you picked up. So 25 you had no idea; right?</p>

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<p>Page 321</p> <p>1 A. I would have to rely on the 2 transport companies of Adorama, 3 Kitchen Winners, Dimerco. 4 Q. How did Dimerco know how many gloves 5 they were picking up? 6 A. They gave them a sheet, I believe, 7 or something with a bill of lading or something 8 with the truck of what was supposed to be on 9 the truck. 10 Q. And you were relying upon that? 11 A. It was a sealed shipment. Nobody's 12 allowed to look at it. 13 Q. So Dimerco didn't really know; they 14 were just relying upon Adorama and 15 Kitchen Winners? 16 A. Correct. 17 Q. So you were just relying upon 18 Adorama or Kitchen Winners? 19 A. Correct. 20 Q. So how is it that you didn't know 21 how many gloves you had picked up if -- 22 presumably Adorama or Kitchen Winners gives 23 that document to Dimerco when they picked the 24 stuff up; right? You had that? 25 A. The document wasn't accurate.</p>	<p>Page 323</p> <p>1 all, litigation strategy's absolutely 2 protected as work product. Second of all, 3 I still don't see how he can answer that 4 question without revealing communications 5 with me. 6 MR. SPERBER: First of all, attorney 7 work product is protected, not client. 8 BY MR. SPERBER: 9 Q. Mr. Kato, when did you hire 10 Mr. Rakhunov? 11 THE WITNESS: When did I hire you, 12 Phil? 13 MR. RAKHUNOV: I can't remember 14 right now. 15 THE WITNESS: You're not a 16 professional, Phillip? You can't remember 17 when I hired you? I mean . . . 18 MR. RAKHUNOV: I'm not under oath. 19 THE WITNESS: I don't recollect 20 exactly when I hired Phillip. 21 BY MR. SPERBER: 22 Q. Okay. Was it before or after 23 Kitchen Winners and -- Kitchen Winners sued 24 Rock Fintek? 25 A. Before or after? I don't -- I'm not</p>
<p>Page 322</p> <p>1 Q. Okay. We've been over that. All 2 right. 3 Why didn't Rock Fintek sue Adorama 4 or Kitchen Winners earlier? 5 MR. RAKHUNOV: All right. Hold on. 6 Objection. 7 If -- I mean I'm just going to 8 instruct you not to answer that one because 9 I don't see how you can possibly answer 10 that question without revealing 11 attorney-client communications as far as 12 litigation strategy. 13 THE WITNESS: There's your answer. 14 BY MR. SPERBER: 15 Q. Well, litigation strategy is not 16 protected, only communications with counsel. 17 So if you have independent knowledge outside of 18 what your attorney told you, did Rock Fintek 19 make a decision on -- you know, as to when it 20 was going to sue? 21 MR. RAKHUNOV: Objection. Again, 22 if -- 23 MR. SPERBER: Phil, let me back up. 24 MR. RAKHUNOV: Yeah. I'm going to 25 instruct you not to answer that. First of</p>	<p>Page 324</p> <p>1 sure. 2 MR. RAKHUNOV: Objection. I don't 3 know if Mr. Kato remembers when 4 Kitchen Winners filed its lawsuit, but I 5 can tell you it was well before then. 6 BY MR. SPERBER: 7 Q. How are you paying Mr. Rakhunov? Is 8 it on contingency fee, or is it hourly basis? 9 MR. RAKHUNOV: Objection. Do not 10 answer that. Come on. 11 MR. SPERBER: What's the objection? 12 MR. RAKHUNOV: That's absolutely 13 privileged. My fee arrangement with my 14 client is privileged. 15 MR. SPERBER: It's definitely not 16 privileged. 17 MR. RAKHUNOV: File a motion. 18 MR. FRISCH: It is 100 percent not 19 privileged. 20 MR. RAKHUNOV: Okay. File a motion. 21 BY MR. SPERBER: 22 Q. You've alleged that Rock Fintek 23 required Adorama to be a party to the SPA and 24 to guarantee performance of Kitchen Winners. 25 Are there any documents that support</p>

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<p style="text-align: right;">Page 325</p> <p>1 that assertion?</p> <p>2 MR. RAKHUNOV: Objection.</p> <p>3 THE WITNESS: Is that something I'm</p> <p>4 supposed to be reading somewhere?</p> <p>5 BY MR. SPERBER:</p> <p>6 Q. No. It's a question I asked.</p> <p>7 A. Could you repeat the question?</p> <p>8 Q. You've alleged that Rock Fintek</p> <p>9 required Adorama to be a party to the SPA and</p> <p>10 to guarantee the performance of</p> <p>11 Kitchen Winners.</p> <p>12 Are there any documents that support</p> <p>13 that assertion?</p> <p>14 MR. RAKHUNOV: Objection.</p> <p>15 THE WITNESS: Adorama and</p> <p>16 Kitchen Winners to me are one and the same.</p> <p>17 Hershey held himself out as Adorama.</p> <p>18 Mendel Banon held himself out as</p> <p>19 distribution for Adorama.</p> <p>20 MR. SPERBER: All right. Let's take</p> <p>21 a five-minute break. I think I'm basically</p> <p>22 done. I just want to confirm.</p> <p>23 MR. RAKHUNOV: Sure.</p> <p>24 MR. FRISCH: I will have some</p> <p>25 follow-up.</p>	<p style="text-align: right;">Page 327</p> <p>1 other gloves from other people. The price</p> <p>2 was fluctuating. The delivery time would</p> <p>3 have been slower.</p> <p>4 Some of the prices were slower than</p> <p>5 I was paying -- were lower than I was</p> <p>6 paying with Adorama.</p> <p>7 BY MR. SPERBER:</p> <p>8 Q. But the problem was -- you said you</p> <p>9 couldn't deliver on time.</p> <p>10 A. They would take nine months or</p> <p>11 something to deliver them.</p> <p>12 Q. Would that have been acceptable to</p> <p>13 Ascension?</p> <p>14 MR. RAKHUNOV: Objection.</p> <p>15 THE WITNESS: After what happened</p> <p>16 now, I'm sure it would have been very</p> <p>17 acceptable.</p> <p>18 BY MR. SPERBER:</p> <p>19 Q. They didn't need the gloves</p> <p>20 immediately?</p> <p>21 A. They needed the gloves for the</p> <p>22 schedule we made.</p> <p>23 Q. Would they have let you have</p> <p>24 delivered the gloves -- you know, different</p> <p>25 gloves nine months later?</p>
<p style="text-align: right;">Page 326</p> <p>1 (Break taken from 5:25 p.m. to</p> <p>2 5:31 p.m.)</p> <p>3 BY MR. SPERBER:</p> <p>4 Q. Okay. Mr. Kato --</p> <p>5 A. Yes.</p> <p>6 Q. -- you said earlier that you -- let</p> <p>7 me ask it differently.</p> <p>8 The gloves that you bought from</p> <p>9 Stern and from Adorama, were these the best</p> <p>10 prices you could find for gloves at the time?</p> <p>11 MR. RAKHUNOV: Objection.</p> <p>12 THE WITNESS: I believe we could</p> <p>13 have bought some other gloves, but Adorama</p> <p>14 seemed the most reliable company to work</p> <p>15 with.</p> <p>16 BY MR. SPERBER:</p> <p>17 Q. Were you aware at the time of</p> <p>18 cheaper gloves that you could have purchased</p> <p>19 that Ascension would have taken?</p> <p>20 MR. RAKHUNOV: Objection.</p> <p>21 THE WITNESS: When you say</p> <p>22 "objection," that means I'm supposed to</p> <p>23 answer or not supposed to answer?</p> <p>24 MR. RAKHUNOV: You can answer.</p> <p>25 THE WITNESS: I could have gotten</p>	<p style="text-align: right;">Page 328</p> <p>1 MR. RAKHUNOV: Objection.</p> <p>2 THE WITNESS: I don't know if they</p> <p>3 would have or not would have.</p> <p>4 BY MR. SPERBER:</p> <p>5 Q. Would it be accurate to say that if</p> <p>6 you hadn't gone with the gloves from Stern,</p> <p>7 JNS, Adorama, Kitchen Winners, you would have</p> <p>8 had to pay more money to get gloves for -- to</p> <p>9 meet your contractual requirements with</p> <p>10 Ascension on --</p> <p>11 A. No.</p> <p>12 Q. -- the timeline that Ascension would</p> <p>13 have been happy with?</p> <p>14 MR. RAKHUNOV: Objection.</p> <p>15 THE WITNESS: No. I said the</p> <p>16 opposite just now.</p> <p>17 BY MR. SPERBER:</p> <p>18 Q. What are you saying?</p> <p>19 A. I said in your previous question --</p> <p>20 two questions ago, I could have got them for</p> <p>21 less. Maybe the time would have been longer,</p> <p>22 the delivery time.</p> <p>23 Q. You told me earlier that Ascension</p> <p>24 got very upset when the delivery times were</p> <p>25 delayed by the LevMed gloves.</p>

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<p style="text-align: right;">Page 329</p> <p>1 A. Correct. I don't know how happy 2 they would have been by me buying cheaper 3 gloves that take longer to get delivered. 4 Q. So it's possible you would have lost 5 your customer? 6 A. No. I would have bought the guy's 7 whole allotment, and I'd probably still have my 8 customer because right now. It would have been 9 real gloves, real examination gloves. 10 Q. So if those were cheaper, why didn't 11 you buy them? 12 A. I believed -- 13 MR. RAKHUNOV: Objection. 14 THE WITNESS: -- Kitchen Winners and 15 Adorama, Kitchen Winners and JNS, to be 16 honest people. 17 BY MR. SPERBER: 18 Q. Who was that seller who had cheaper 19 gloves for you at the time? 20 A. There was a gentleman that we were 21 dealing with in Florida. 22 Q. What was his name? 23 A. I don't recall his name. 24 Q. Do you have communications with him? 25 A. Yeah. I met -- I met him.</p>	<p style="text-align: right;">Page 331</p> <p>1 gloves five years later and they would have 2 been fine with it? 3 A. I'm sure -- no. They wanted the 4 gloves immediately. 5 Q. Do you have the phone number for 6 this person in Florida that you were dealing 7 with? 8 A. No. I don't recollect his name. 9 Q. So you don't know his name, the 10 company's name -- 11 A. It was Medgluv. And I went to 12 Medgluvs, in to the office somewhere in 13 southern Florida. I drove there, and I walked 14 in the office and I spoke to him face to face. 15 Met him twice, two or three times. 16 Q. Well, let me -- I'm going to show 17 you what's been previously marked as Exhibit 18 KWA-Kato 3. 19 Is this the PO you had with 20 Ascension? 21 MR. RAKHUNOV: Objection. 22 THE WITNESS: Is this the PO we had 23 with Ascension? Okay. Yes. 24 BY MR. SPERBER: 25 Q. Is this the one that you were trying</p>
<p style="text-align: right;">Page 330</p> <p>1 Q. Okay. And, again, were those via 2 email or WhatsApp? 3 A. No. I met him face to face. 4 Q. You never had anything in writing 5 with him? 6 A. No. I didn't have anything in 7 writing him I didn't move forward. 8 Q. You didn't have a formal offer from 9 him? 10 A. No. 11 Q. How many gloves did he have 12 available to sell you? 13 A. He had -- there was a variety of 14 different containers that would arrive every 15 single month. 16 Q. What was his company's name? 17 A. Medgluvs, I believe is the name of 18 the company. 19 (Stenographer requests 20 clarification.) 21 BY MR. SPERBER: 22 Q. Did your PO with Ascension have a 23 expiration date on it? 24 A. I don't believe so. 25 Q. So you could have delivered the</p>	<p style="text-align: right;">Page 332</p> <p>1 to get gloves from Kitchen Winners and Adorama 2 and Stern and JNS to meet? 3 A. I believe so. 4 Q. Okay. Is there a due date listed on 5 there? 6 A. I'd have to read through it. Do you 7 see a due date? 8 Q. Take a look at the far right column. 9 A. Due date, 12/14/20. So one week 10 later. 11 Q. Yeah. I mean, very short timeline 12 to get these gloves. Is there anything on here 13 that would have said you could deliver gloves 14 nine months later? 15 MR. RAKHUNOV: Let me just note my 16 objection. I don't know if -- what the due 17 date refers to. I don't think you've laid 18 a foundation for that. 19 THE WITNESS: I don't know what it 20 refers to. 21 BY MR. SPERBER: 22 Q. Okay. 23 A. I'm 100 percent positive they 24 weren't expecting me to deliver them in a week 25 from them signing.</p>

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<p>Page 333</p> <p>1 Q. All right. In discovery in this 2 action, Rock Fintek has produced a number of 3 WhatsApp chats. 4 Are you familiar with what I'm 5 talking about? 6 A. Yes. 7 Q. Were you involved in providing those 8 documents to your attorney? 9 A. The ones that I had? Yes. 10 Q. Okay. Have you looked over all the 11 WhatsApp chats that were produced by 12 Rock Fintek in this lawsuit? 13 A. I believe we went over most of them. 14 Not all of them. 15 Q. To your knowledge, are those -- the 16 documents that Rock Fintek produced, are those 17 accurate transcriptions of WhatsApp 18 communications between Rock Fintek or its 19 employees and other individuals? 20 A. Yes. 21 Q. So each of those chats that were 22 produced by Rock Fintek, those are -- those 23 are, you know, accurate, real WhatsApp chats 24 that Rock Fintek or its employees were engaged 25 in?</p>	<p>Page 335</p> <p>1 THE WITNESS: I've got time, 2 Phillip. It's fine. 3 MR. RAKHUNOV: No, but you're 4 expecting him to authenticate and confirm 5 that it's exactly accurate, given that 6 you're the one that printed it? You could 7 have deleted things. I mean -- 8 MR. SPERBER: That's fair. Okay. 9 So let's just -- 10 THE WITNESS: Well, let me read it 11 first, and I'll tell you what I think. 12 BY MR. SPERBER: 13 Q. No, that's all right. I think Phil 14 makes a good point. 15 A. Okay. 16 MR. RAKHUNOV: By the way, your 17 client Mr. Banon has this -- or should have 18 this; so you can, you know, compare what we 19 produced to what he has. 20 BY MR. SPERBER: 21 Q. One minute. Let's go to page 21. 22 Are you there? 23 A. I'm getting there. Okay. 24 Q. Just confirm this is an accurate 25 transcription of communications between</p>
<p>Page 334</p> <p>1 MR. RAKHUNOV: Objection. 2 But go ahead. 3 THE WITNESS: I don't know the 4 context of what the messages might say. 5 "Jump off the roof" might not mean jump off 6 the roof. I don't know. 7 But, yes, those communications that 8 we produced are communications. It's clear 9 who they're to and who they're from. 10 BY MR. SPERBER: 11 Q. Okay. I'm going to share with you a 12 document. I think we're up to 10. I'm going 13 to stamp this as KWA-Kato 10. 14 (Exhibit Number KWA-Kato 10, Chat 15 started 3/4/21, was marked for 16 identification.) 17 BY MR. SPERBER: 18 Q. Take a look, if you like. Please 19 confirm that this is an accurate transcription 20 of the WhatsApp communication you were engaged 21 in. 22 A. Let's see. 23 MR. RAKHUNOV: You're expecting him 24 to go through a 47-page transcript and tell 25 you --</p>	<p>Page 336</p> <p>1 Rock Fintek and Mr. Banon? 2 MR. RAKHUNOV: Same objection. 3 BY MR. SPERBER: 4 Q. Just this page. 5 A. (Reviewing document.) 6 Do you have a question for me? 7 Q. Would you say this is an accurate 8 transcription of a WhatsApp communication that 9 you were involved in with Mendel Banon? 10 A. From when, from where to where? 11 Q. What you see on page 21 of this 12 document. 13 A. Only 21? 14 Q. Only 21. 15 A. Okay. Only 21. 16 (Reviewing document.) 17 Seems accurate. 18 MR. SPERBER: Okay. I have nothing 19 further. Avi? 20 MR. FRISCH: Yes, I have a few 21 follow-ups. 22 EXAMINATION 23 BY MR. FRISCH: 24 Q. First, just so I understand the math 25 on this issue with the 5,963 cartons that you</p>

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<p style="text-align: right;">Page 337</p> <p>1 claim were over -- oversold, isn't that only 2 about 4 percent of the total purchase you made 3 from Kitchen Winners? 4 A. Possibly. 5 Q. So how is it over \$2 million owed as 6 a refund? 7 A. Those are rebates plus the overage. 8 Q. Okay. So the \$2 million includes 9 the rebate and the overage? I just -- I just 10 want to make sure that -- 11 THE WITNESS: Is that how you worded 12 it, Phillip? 13 (Stenographer requests 14 clarification.) 15 MR. RAKHUNOV: Tommy, I don't know. 16 Just listen to the questions. 17 BY MR. FRISCH: 18 Q. I'm curious about your math because 19 it doesn't seem to make much sense to me. 20 Okay. 21 All right. Let's see. Is this the 22 next one I wanted to show? Let me share this 23 one next. Let me -- let me see what we're up 24 to first. JNS -- we're up to Exhibit I [sic], 25 it looks like. Stamp this as JNS I.</p>	<p style="text-align: right;">Page 339</p> <p>1 you may -- you seem to want to testify. 2 Should we depose you too? 3 MR. RAKHUNOV: No. I just can't 4 wait to actually talk to your clients. 5 That's all. There's just a lot of stuff 6 you guys are asking, you know, Mr. Kato, 7 that both of your clients -- 8 MR. FRISCH: It literally is the 9 stupidest case left, but okay. Stupid 10 case. Should be gone after today. All 11 right. Let's see. Let's see if we can get 12 rid of you. 13 BY MR. FRISCH: 14 Q. So you said before that it was 15 impossible for these papers to have been 16 inserted by you; is that correct? 17 A. That's correct. 18 Q. And you said that's because it was 19 shrink-wrapped; isn't that correct? 20 A. Shrink-wrapped. I didn't come with 21 a paper printed. Medline has cameras and would 22 have saw me place them in there if I did. And 23 I said I didn't put the papers in there. 24 (Exhibit Number JNS J, Photograph 25 IMG_8429, was marked for identification.)</p>
<p style="text-align: right;">Page 338</p> <p>1 (Exhibit Number JNS Q, Photograph 2 IMG_8428, was marked for identification.) 3 BY MR. FRISCH: 4 Q. Do you see this sign? This is from 5 your photos that you produced in this action. 6 Do you recall seeing this sign with the name 7 David Dembitzer? 8 A. I think so, yes. 9 Q. Is that the person you were 10 referring to earlier? 11 A. No. 12 Q. Okay. Do you know who David 13 Dembitzer is? 14 A. No. 15 Q. Do you know what that TCLU8010739 16 refers to? 17 A. TCLU -- I'd probably have to ask 18 Bradley. 19 MR. RAKHUNOV: No. We'll have to 20 ask Mr. Stern. He certainly knows what it 21 is, and so do I. But anyway, that's for 22 next week. 23 THE WITNESS: Okay. 24 MR. FRISCH: Thanks for the 25 commentary. I can't wait -- I think, Phil,</p>	<p style="text-align: right;">Page 340</p> <p>1 BY MR. FRISCH: 2 Q. So now I'm looking at this photo 3 that you produced. It's now marked JNS Exhibit 4 J. 5 Do you see the quality of the 6 shrink-wrap in this photo? 7 A. Yes. 8 Q. And the paper is about 2 inches 9 below the beginning of the shrink-wrap. Isn't 10 it possible that anybody could have stuck a 11 paper in that pallet? 12 MR. RAKHUNOV: Objection. 13 THE WITNESS: Not with that same 14 information on it, I don't believe. 15 BY MR. FRISCH: 16 Q. You don't know what the information 17 means; correct? 18 A. I don't know what it means, but 19 Phillip seems to know what it means. 20 Q. Well, Phillip's not testifying. So 21 good luck to him. He already said he doesn't 22 want to testify. 23 Let's go to another one. 24 A. If I put the paper on there, then I 25 would be able to tell you what it is. But</p>

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1 since I didn't put the paper in there, I don't
2 know what the purpose of --
3 **Q. These are your photos; right?**
4 A. I took photos. I didn't make the
5 paper. I didn't write the words on there and
6 the numbers.
7 **Q. Okay. This one says -- has a JNS**
8 **with some numbers. I guess these are the ones**
9 **with the stickers; right? That's --**
10 A. I don't see it yet.
11 **Q. Oh, I didn't share it. I'm sorry.**
12 (Exhibit Number JNS K, Photograph
13 IMG_8369, was marked for identification.)
14 BY MR. FRISCH:
15 **Q. Do you see it now?**
16 A. Yes.
17 **Q. Again, the stickers on the boxes**
18 **were to replace -- it appears the boxes**
19 **originally were printed "Synthetic Nitrile**
20 **Gloves," and somebody put a sticker on to write**
21 **"Nitrile Examination Gloves"; is that correct?**
22 A. That's correct.
23 **Q. Do you have any idea -- do you have**
24 **any reason to assume it was Joel Stern who put**
25 **that sticker on?**

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1 MR. RAKHUNOV: Objection. Asked and
2 answered.
3 BY MR. FRISCH:
4 **Q. Okay. Answer again.**
5 A. He suggested -- he suggested doing
6 it; so I presumed he did it after I didn't want
7 to do it.
8 **Q. Okay. And you have no idea what the**
9 **content of these boxes were; correct?**
10 A. What type of gloves?
11 **Q. Yes.**
12 A. I took samples, and I sent them
13 to -- for testing.
14 **Q. Okay. Now again with the white**
15 **paper. Since you said that it was impossible**
16 **for anybody to have placed them other than the**
17 **seller, again, there's no -- nothing on this**
18 **pallet preventing anybody from sticking a white**
19 **paper on; correct?**
20 A. I think Medline is a credible,
21 legitimate company and would have -- has no
22 motivation to put anything on anything.
23 **Q. I didn't say Medline put it on. I**
24 **said you put it on.**
25 A. I didn't come in with any papers.

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1 **Q. Okay. I understand you're denying**
2 **you put it on, but you're just as likely to**
3 **have put it on -- you could have put this one**
4 **on, had you had the paper with you; correct?**
5 A. If I had the paper with me, then I
6 would have to know what these numbers and
7 letters mean.
8 **Q. Not necessarily.**
9 A. Phillip has a reason that means
10 something that I'm not privy to at the moment.
11 **Q. All right. Next one. I believe**
12 **we're up to L.**
13 (Exhibit Number JNS L, Photograph
14 IMG_8348, was marked for identification.)
15 BY MR. FRISCH:
16 **Q. This is your photo; right? That's**
17 **you in the photo; correct? Oh, I didn't share**
18 **it yet. I keep doing that. Sorry.**
19 **Is that you in the photo?**
20 A. Yes, it is.
21 **Q. Now, here you found a box that says**
22 **"Protection Gloves"; is that correct?**
23 A. I've got to zoom on it.
24 **Q. By the way, I discovered if you hit**
25 **the little gear icon on the right, you can go**

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1 **to full screen on the attachment -- on the**
2 **exhibit.**
3 A. That would have been good five hours
4 ago.
5 **Q. Yeah.**
6 MR. RAKHUNOV: Look at that.
7 MR. FRISCH: I only discovered it 20
8 minutes ago.
9 MR. RAKHUNOV: Look at that.
10 THE WITNESS: Okay. What was the
11 question with this box?
12 BY MR. FRISCH:
13 **Q. This box says "Protection Gloves" on**
14 **it; correct?**
15 A. Correct.
16 **Q. Now, do you know where that box came**
17 **out of, which pallet?**
18 A. Probably the one I'm standing in
19 front of.
20 **Q. Do you know any way to know that**
21 **that's the pallet it came out of?**
22 A. That's why I took the photo in front
23 of that box. The other box is on top of it.
24 **Q. All right. Now, how do you know --**
25 **do you know if anything on the boxes -- on**

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<p style="text-align: right;">Page 345</p> <p>1 these boxes indicates that it's a box of 2 protection gloves? 3 A. It says "Protection" on the box. 4 Q. Where? 5 A. Right where I'm pointing. 6 Q. No, no, no. On the cartons, on the 7 big brown cartons. 8 A. Let me see. 9 MR. RAKHUNOV: Objection. 10 THE WITNESS: Protection -- it says 11 right there, under MedCare. Protection. 12 BY MR. FRISCH: 13 Q. That's the answer I thought you'd 14 give me. Great. 15 (Exhibit Number JNS M, Photograph 16 IMG_0578, was marked for identification.) 17 BY MR. FRISCH: 18 Q. The next one is Exhibit M. These 19 also say "Protection," at least the ones I -- 20 this may not be the one I wanted. 21 A. Why are there two Hershey Weiners? 22 Is there somebody else on this deposition? 23 Q. Hold on. That wasn't the photo I 24 wanted. Give me a second. 25 So it's your testimony that none of</p>	<p style="text-align: right;">Page 347</p> <p>1 A. These say "Protection" on them. 2 Q. But doesn't every single one of -- 3 meaning -- not every single one, but a lot of 4 these boxes say "Protection," and then they say 5 "Examination Gloves" underneath them. 6 A. The ones that don't have 7 "Examination" are only protection inside. 8 Q. I definitely saw a video, but I 9 don't know how to share a video. So let me see 10 if I can find the thing I'm looking for in a 11 photo. Otherwise, we'll just go with that. 12 Give me one more second. I apologize. 13 And you're saying when you went -- 14 here. This is the one I was looking for. My 15 apologies. This will be Exhibit N. 16 (Exhibit Number JNS N, Photograph 17 IMG_8201, was marked for identification.) 18 BY MR. FRISCH: 19 Q. Now, do you see this box says 20 "MedCare Protection," and then underneath it, 21 it says "NBR Nitrile Examination Gloves." 22 You see that? 23 A. Yeah. 24 Q. So the word "Protection" under 25 "MedCare" does not necessarily indicate the</p>
<p style="text-align: right;">Page 346</p> <p>1 the boxes were labeled "Examination Gloves" in 2 the photos but had that -- but had the word 3 "Protection" under the MedCare name on any of 4 the boxes? 5 A. No. 6 Q. Is that -- 7 A. I just read what those boxes said to 8 you. Show me other pictures; I'll tell you 9 what I see. 10 Q. Okay. But you're saying the word 11 "protection" under "MedCare" means it's a box 12 of protection gloves? 13 MR. RAKHUNOV: Objection. 14 THE WITNESS: Yeah. 15 BY MR. FRISCH: 16 Q. That's what I've asked you. Is that 17 correct? Is that accurate as -- I didn't pick 18 the right one. I apologize. I'm looking for 19 the right photo. 20 MR. RAKHUNOV: I don't think he's 21 asking about this particular exhibit, 22 Thomas. 23 BY MR. FRISCH: 24 Q. No, no, no. I'm not asking about 25 that because it's the wrong one.</p>	<p style="text-align: right;">Page 348</p> <p>1 contents of the box; is that correct? 2 A. When they add "Examination," then 3 you know the gloves inside have examination 4 too. Has Joel Stern's name too, not JNS. 5 Q. I don't know who put that sign 6 there. So I don't know what that sign means. 7 A. They did. Those guys did. 8 Q. That's your -- again, you don't know 9 that. That's your assumption. 10 A. I know Brad didn't do it. I know I 11 didn't do it. 12 Q. Well -- so when you look at all 13 these, were each of these -- when you said you 14 saw 9 million protection gloves with stickers 15 on them, did you open all these boxes and 16 actually look at the blue cartons? 17 A. So we went through these pallets and 18 randomly opened up cartons inside most of all 19 those pallets you see everywhere in every one 20 of these photos. 21 Q. Okay. And some of them -- a lot of 22 them said "Examination," and some of them said 23 "Protection"? 24 A. Everything that says "Protection" 25 without "Examination" on the outside of the box</p>

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<p style="text-align: right;">Page 349</p> <p>1 was only protection.</p> <p>2 Q. Well, wait until you -- I hope when</p> <p>3 you come to trial you'll bring a whole pallet</p> <p>4 with you, and we can go through the whole box.</p> <p>5 But until then I'll have to take your word for</p> <p>6 it.</p> <p>7 A. You can have them delivered from</p> <p>8 Medline to you guys.</p> <p>9 Q. Medline doesn't want to answer us.</p> <p>10 They're not interested. So . . .</p> <p>11 Okay. All right. I forgot to do</p> <p>12 this one. What am I up to? All right. I know</p> <p>13 this one is tiny because I have it in a weird</p> <p>14 format.</p> <p>15 (Exhibit Number JNS O, Email from</p> <p>16 Leah Lax to 9070854@gmail.com, was marked</p> <p>17 for identification.)</p> <p>18 BY MR. FRISCH:</p> <p>19 Q. I do apologize that this one is in a</p> <p>20 -- sort of a screenshot. So it came in a weird</p> <p>21 format.</p> <p>22 Have you ever seen this letter</p> <p>23 before?</p> <p>24 A. I can't see that really. Try to --</p> <p>25 MR. RAKHUNOV: And, Counsel, can you</p>	<p style="text-align: right;">Page 351</p> <p>1 Q. Do you have any reason to doubt</p> <p>2 that's true?</p> <p>3 A. They told us differently on the</p> <p>4 phone.</p> <p>5 Q. They seem to say whatever needs to</p> <p>6 be said to save themselves money.</p> <p>7 Would you disagree with that?</p> <p>8 MR. RAKHUNOV: Objection.</p> <p>9 THE WITNESS: I'm not sure what they</p> <p>10 say and why they say it.</p> <p>11 BY MR. FRISCH:</p> <p>12 Q. Do you have any reason to believe</p> <p>13 that MedCare was ever telling you the truth in</p> <p>14 things they said to you?</p> <p>15 MR. RAKHUNOV: Objection.</p> <p>16 THE WITNESS: I believe people when</p> <p>17 they first speak to me. I give them the</p> <p>18 benefit of the doubt.</p> <p>19 BY MR. FRISCH:</p> <p>20 Q. Didn't they send you, like, 20</p> <p>21 messages that they were sending you a free</p> <p>22 container of gloves that never showed up?</p> <p>23 A. And I believed them.</p> <p>24 Q. But it never showed up; correct?</p> <p>25 A. Until the 20th message, and I</p>
<p style="text-align: right;">Page 350</p> <p>1 just identify where this document is in --</p> <p>2 MR. FRISCH: This came in the</p> <p>3 Joel Stern email production last week.</p> <p>4 MR. RAKHUNOV: Okay.</p> <p>5 MR. FRISCH: Where exactly?</p> <p>6 Offhand, I can't tell you, but somewhere in</p> <p>7 there.</p> <p>8 MR. RAKHUNOV: Fair enough.</p> <p>9 THE WITNESS: What was the question</p> <p>10 again about this?</p> <p>11 BY MR. FRISCH:</p> <p>12 Q. Have you ever seen this letter?</p> <p>13 A. I don't think so.</p> <p>14 Q. Okay. Well, then I don't have any</p> <p>15 questions about it.</p> <p>16 A. I might have. I've seen the red</p> <p>17 stamp before.</p> <p>18 Q. It looks to you like a letter that</p> <p>19 may have --</p> <p>20 A. Yosi is Anna's son. He's also their</p> <p>21 engineer.</p> <p>22 Q. Okay. Do you see them claiming that</p> <p>23 the NBR, synthetic, examination, and protection</p> <p>24 are all the same?</p> <p>25 A. That's what they're saying here.</p>	<p style="text-align: right;">Page 352</p> <p>1 figured, you know, I had been taken again.</p> <p>2 Q. Maybe they're the ones who took you</p> <p>3 the entire time. Is that not possible?</p> <p>4 MR. RAKHUNOV: Objection.</p> <p>5 THE WITNESS: I didn't believe that.</p> <p>6 I trusted an honest-sounding accountant. I</p> <p>7 trusted an honest-sounding person in</p> <p>8 Hershey Weiner and Mendel Banon and</p> <p>9 Mendlowitz with a company with credibility,</p> <p>10 which I believed at the time. They all</p> <p>11 appeared to be gentlemen, and that's why I</p> <p>12 started to work with them.</p> <p>13 (Exhibit Number JNS P, Email Chain,</p> <p>14 Bates-stamped RF_003483 - 3486, was marked</p> <p>15 for identification.)</p> <p>16 BY MR. FRISCH:</p> <p>17 Q. Manning -- here's another email that</p> <p>18 you sent in regard to the earlier quality of</p> <p>19 the gloves. This email says, "There has to be</p> <p>20 something with a small lot of them. We have</p> <p>21 emails and calls with Vince several months ago</p> <p>22 on how people were happy with them. Has to be</p> <p>23 something that happened in May."</p> <p>24 I don't think I've seen those</p> <p>25 emails. Do you know -- have you produced the</p>

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<p style="text-align: right;">Page 353</p> <p>1 emails that Vince sent you saying people were 2 happy with the gloves? 3 A. I gave Phillip all the emails that I 4 had in relation to this case. 5 MR. FRISCH: Phillip, do you happen 6 to know where they are? 7 MR. RAKHUNOV: Sorry. Come again. 8 MR. FRISCH: The emails he 9 references here, "emails and calls from 10 Vince several months ago on how people were 11 happy with them," I don't think I've seen 12 those emails from Vince. So I'm wondering 13 if those emails -- if you happen to have 14 seen them in the production. 15 MR. RAKHUNOV: I can go back and 16 take a look. I -- 17 MR. FRISCH: I'd appreciate it. 18 MR. RAKHUNOV: I don't know off the 19 top of my head. 20 BY MR. FRISCH: 21 Q. How much money did you pay yourself 22 over the course of your dealings with Ascension 23 out of Rock Fintek? 24 A. How much did I pay myself? 25 Q. Uh-huh.</p>	<p style="text-align: right;">Page 355</p> <p>1 MR. RAKHUNOV: Objection. 2 THE WITNESS: I'm giving you what 3 was relevant to all the business I did with 4 Ascension and with your clients. 5 BY MR. FRISCH: 6 Q. Well, we'll have to serve subpoenas 7 on the banks, I guess. 8 (Simultaneous speaking.) 9 THE WITNESS: Clients who I paid, 10 who paid me. 11 BY MR. FRISCH: 12 Q. So -- now, you've alleged that 13 Joel Stern defrauded you. Is there any aspect 14 of your damages that arise from other -- 15 anything other than delivering the wrong 16 gloves, in your opinion? 17 A. If he would have given me proper 18 examination gloves? No. There would be no 19 damages. 20 Q. So your damages arise from his 21 failure to fulfill the terms of the contract, 22 in your opinion; correct? 23 A. Well, he committed fraud. He 24 changed the label of the boxes. 25 Q. Well, that's what you say.</p>
<p style="text-align: right;">Page 354</p> <p>1 A. Before the glove deal? 2 Q. Before, during, after. 3 A. Before -- 4 MR. RAKHUNOV: Objection. 5 That's . . . 6 THE WITNESS: I'd say 3 million, 7 4 million, 5 million. 8 BY MR. FRISCH: 9 Q. How did you pay it? Was that 10 transferred by an ACH transfer, or was that 11 paid by check? 12 A. It was paid ACH. 13 Q. And all of Rock Fintek's banking was 14 done at Bank of America and Wells Fargo? 15 A. Correct. 16 Q. All right. Is there some reason why 17 you redacted the vast, vast majority of the 18 bank statements? 19 A. There was other clients. 20 Q. But you're out of business; so what 21 difference does it make? 22 MR. RAKHUNOV: Objection. 23 BY MR. FRISCH: 24 Q. And you already told us who the 25 clients are.</p>	<p style="text-align: right;">Page 356</p> <p>1 MR. RAKHUNOV: That's what you're 2 looking for -- right? -- is what he says. 3 BY MR. FRISCH: 4 Q. But that being said, there were no 5 additional damages that arose from that, were 6 there? 7 A. Just losing my biggest client. 8 Q. Well, I'm not going to go back into 9 that. 10 A. I could have made testing kits, sold 11 them to them, to other hospitals. I could have 12 kept working with the Australian health system, 13 who stopped working with me. It caused a chain 14 reaction of problems. 15 Q. Meaning at some point, the MedCare 16 gloves were satisfactory, and by your own -- by 17 your own writings at the time 18 contemporaneous -- and those gloves, by your 19 own testimony, came from Joel Stern and JNS, 20 did they not? 21 A. I was told by Vince, the doctors and 22 the hospitals were happy with all the gloves at 23 the time. 24 Q. Okay. 25 A. Later I was told that they sent that</p>

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<p style="text-align: right;">Page 357</p> <p>1 message and they were still sitting in the 2 warehouse and nobody got to see them yet till 3 three months later. That's when they gave me a 4 different story about them and all the 5 investigation started. 6 Q. Do you know when Vince -- do you 7 recall when Vince told you that, the precise 8 date? 9 A. I don't remember exactly when, no. 10 I'm guessing around March. 11 Q. So at least the initial shipment 12 from Mr. Stern and JNS was a good quality, is 13 your testimony? 14 A. Say that again. 15 Q. It's your testimony, then, that at 16 least the first shipment in February from 17 Mr. Stern was of good quality? 18 A. My testimony is that I believed all 19 the gloves were in good quality, until -- until 20 later in July. 21 Q. We also agree. All gloves were of 22 good quality. 23 But if the gloves at some point -- 24 if Vince at some point told you that the 25 doctors were happy with the gloves in March,</p>	<p style="text-align: right;">Page 359</p> <p>1 MR. RAKHUNOV: Objection. 2 Do not answer. 3 MR. FRISCH: Yeah, but I just 4 wanted -- so when we make the application 5 to the judge, I can join in on it: All 6 right. That's all I've got. 7 MR. SPERBER: I just have one last 8 follow-up on that. 9 EXAMINATION 10 BY MR. SPERBER: 11 Q. You entered into a contract with -- 12 with Kitchen Winners and Adorama in April -- on 13 April 7, 2021. 14 Why were you still buying gloves 15 from Stern or JNS after that? 16 A. We were trying to get as many gloves 17 as we could as fast as we could to the client. 18 They were pressing us to deliver as quick as 19 possible. 20 Q. You said a few minutes ago it took 21 Ascension three months to look at the gloves 22 that JNS and Stern had sold you; is that 23 correct? 24 A. That's what they said. 25 Q. So it was a large (indiscernible)</p>
<p style="text-align: right;">Page 358</p> <p>1 that means that at least 90,000 boxes that were 2 shipped in February were of good quality, does 3 it not? 4 MR. RAKHUNOV: Objection. 5 THE WITNESS: No. That's not -- 6 they changed what they said to us. 7 BY MR. FRISCH: 8 Q. Well, shouldn't they have done some 9 investigation, some attempt to look at the 10 gloves beforehand? 11 A. Yeah. I wish they would have done 12 more. 13 Q. So do we all. 14 But at some point, don't you have an 15 obligation to look at the things you're buying 16 and tell people if there's a problem? 17 MR. RAKHUNOV: Objection. 18 THE WITNESS: I couldn't look at 19 them. 20 BY MR. FRISCH: 21 Q. I'm just going to ask the same 22 question. I know you're not going to answer 23 it. 24 What is your fee arrangement with 25 Mr. Rakhunov?</p>	<p style="text-align: right;">Page 360</p> <p>1 there between when you would sell them gloves 2 and when they'd start to use them? 3 CERTIFIED STENOGRAPHER: I'm sorry. 4 It was a large -- 5 MR. RAKHUNOV: Same. I couldn't -- 6 BY MR. SPERBER: 7 Q. So there was a large lag there 8 between when they would sell you gloves and 9 when you'd start to use them -- when they would 10 start to use them? 11 MR. RAKHUNOV: Objection. 12 BY MR. SPERBER: 13 Q. Let me rephrase that. 14 A. I'm not aware of when they used 15 them. I'm just aware -- I was told one story 16 and I'm told another story how they were; so I 17 just take them at their word for it. 18 Q. Right. No, I'm just trying 19 understand how that's reconciled with the 20 LevMed situation where you said that you first 21 learned it was a problem with LevMed when 22 Ascension complained to you, and that was -- 23 seems like days after it was sold; right? 24 A. I'm not following your question. 25 Q. So with Stern, you were just saying</p>

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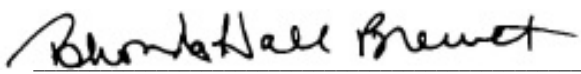
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<p style="text-align: right;">Page 361</p> <p>1 that he sold gloves to Rock Fintek, and</p> <p>2 Rock Fintek delivered them to Ascension, and</p> <p>3 then it took several months for Ascension to</p> <p>4 realize there was a problem with them. Is that</p> <p>5 correct? Is that your testimony?</p> <p>6 MR. RAKHUNOV: Objection.</p> <p>7 THE WITNESS: They didn't tell me</p> <p>8 there was any problem with them until</p> <p>9 mid-July.</p> <p>10 BY MR. SPERBER:</p> <p>11 Q. So there was a lag between when you</p> <p>12 delivered the gloves that you purchased from</p> <p>13 Stern to Ascension and when -- and when they</p> <p>14 told you there was a problem?</p> <p>15 A. Correct.</p> <p>16 Q. And up until then, they were saying</p> <p>17 the gloves were good; correct?</p> <p>18 A. Correct.</p> <p>19 Q. And they told you the reason why</p> <p>20 they said the gloves were good earlier, when</p> <p>21 really they were bad, is because they hadn't</p> <p>22 used them yet; is that right?</p> <p>23 A. I don't know why they said what they</p> <p>24 said.</p> <p>25 Q. What I'm trying to understand is you</p>	<p style="text-align: right;">Page 363</p> <p>1 of business. We put negative, killed and</p> <p>2 depleted all cash flow, and we stopped</p> <p>3 operating. We cancelled the COVID testing</p> <p>4 project. We cancelled -- we couldn't do</p> <p>5 anything.</p> <p>6 Q. So when this transaction lost</p> <p>7 Rock Fintek money, you put money into the</p> <p>8 company?</p> <p>9 A. I was putting money in that I had</p> <p>10 made previously to keep buying and sending</p> <p>11 gloves at a loss in the beginning, yes.</p> <p>12 Q. You produced records in discovery</p> <p>13 documenting that?</p> <p>14 A. You have the bank statements.</p> <p>15 You'll see what I got paid and you'll see what</p> <p>16 I paid.</p> <p>17 Q. The money that was put in came from</p> <p>18 you personally?</p> <p>19 A. It came from the company.</p> <p>20 Q. Which company?</p> <p>21 A. Rock Fintek.</p> <p>22 Q. You said you had infused - you had</p> <p>23 to put additional money into Rock Fintek.</p> <p>24 Where did that money come from?</p> <p>25 A. I had to use previous profits that</p>
<p style="text-align: right;">Page 362</p> <p>1 had said to me earlier that with the LevMed</p> <p>2 gloves, you learned of the problem from</p> <p>3 Ascension. It seems like from the timeline,</p> <p>4 that was only days after Adorama or</p> <p>5 Kitchen Winners sold them to you.</p> <p>6 A. I believe that's because it was a</p> <p>7 different SKU that it caught the attention or a</p> <p>8 red flag from somewhere. But the name LevMed</p> <p>9 didn't have a SKU number; so Medline, I</p> <p>10 believe, didn't know where to place them. They</p> <p>11 knew who they came in from, and they tracked it</p> <p>12 to our shipment and then contacted us, said we</p> <p>13 gave them a different type of product.</p> <p>14 Q. How much did you personally make off</p> <p>15 of this transaction?</p> <p>16 A. I lost money.</p> <p>17 Q. I thought you said you took out</p> <p>18 several million dollars from Rock Fintek. Is</p> <p>19 that not true?</p> <p>20 A. No, that -- the prior -- the year</p> <p>21 before.</p> <p>22 Q. Oh, the year before?</p> <p>23 A. Yeah. Not during this transaction.</p> <p>24 Q. So during this transaction?</p> <p>25 A. This transaction put Rock Fintek out</p>	<p style="text-align: right;">Page 364</p> <p>1 Rock Fintek made.</p> <p>2 Q. So this is money that Rock Fintek</p> <p>3 already had in its accounts?</p> <p>4 A. Correct.</p> <p>5 Q. That -- so you weren't infusing</p> <p>6 money in. It was just other profits that were</p> <p>7 sitting there got depleted?</p> <p>8 A. Yes. That's exactly it.</p> <p>9 Q. So when did you take out the</p> <p>10 \$5 million?</p> <p>11 A. When the what?</p> <p>12 Q. When did you take out your</p> <p>13 \$3-5 million you were talking about earlier?</p> <p>14 A. No, I took out some money as profits</p> <p>15 of the company. Brad took some profit; I took</p> <p>16 some profit out, before we had anything to do</p> <p>17 with any of this, the previous year.</p> <p>18 Q. Is that also in the bank statements?</p> <p>19 A. Yes. You have all transactions that</p> <p>20 Ascension made and I made and got paid. You</p> <p>21 don't have profits that I made from the City of</p> <p>22 New York, Delta Airlines, and all the other</p> <p>23 clients.</p> <p>24 And they were asking what the other</p> <p>25 clients were. They were asking what the other</p>

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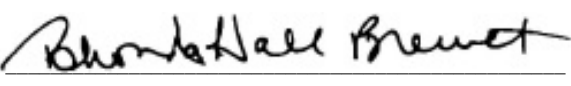
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<p style="text-align: right;">Page 365</p> <p>1 dental practice distributors were because I 2 think they were trying to sell to them 3 directly. 4 Q. Who was? 5 A. I think Adorama, Kitchen Winners, 6 Joel Stern. 7 Q. And you didn't tell them? 8 A. I didn't tell them, but -- I didn't 9 tell them, no. So they don't have that 10 information. I don't believe I told them at 11 all. 12 MR. SPERBER: All right. I think 13 that's all I have. 14 MR. RAKHUNOV: I actually have a 15 couple of really quick follow-up questions, 16 but if -- I don't know if Avi has anything 17 else. 18 MR. FRISCH: No. Go ahead. 19 MR. RAKHUNOV: I don't know how 20 to -- how to do this, if I want to put up 21 an exhibit. 22 MR. FRISCH: You have to upload it 23 first. 24 MR. RAKHUNOV: Well, if it's one of 25 the -- no, it's something already used.</p>	<p style="text-align: right;">Page 367</p> <p>1 New York, Texas, all around the country. 2 Multiple cities. 3 MR. RAKHUNOV: Okay. Nothing else. 4 MR. FRISCH: Thank you, all. 5 CERTIFIED STENOGRAPHER: Does 6 anybody need copies of transcripts? 7 MR. FRISCH: We will need them, yes. 8 MR. SPERBER: Yes. 9 CERTIFIED STENOGRAPHER: Ms. Riddle, 10 do you guys need a transcript? 11 MS. RIDDLE: Yes. 12 (Concluded at 6:16 p.m.) 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p style="text-align: right;">Page 366</p> <p>1 MR. FRISCH: I think you just click 2 on it and share it. 3 EXAMINATION 4 BY MR. RAKHUNOV: 5 Q. Mr. Kato, do you see a Sales and 6 Purchase Agreement in front of you that was 7 previously marked as Kato 5? 8 A. Yes, I do. 9 Q. Okay. So you remember you were 10 asked some questions earlier about 11 paragraph 2.d. that references seller's 12 warehouse in Los Angeles, and you were asked 13 some questions about paragraph 4 talking about 14 products arriving at the Port of Long Beach, 15 California. 16 Do you remember that earlier today? 17 A. Yes, I do. 18 Q. During the life of your transactions 19 with Kitchen Winners, Mr. Stern, Adorama, were 20 products always -- actually, strike that. 21 During the life of your transaction 22 with Adorama and Kitchen Winners, were products 23 always shipped to or from the Long Beach, 24 California, warehouse? 25 A. No, they were shipped from Newark,</p>	<p style="text-align: right;">Page 368</p> <p>1 CERTIFICATE OF OATH 2 3 STATE OF FLORIDA 4 COUNTY OF POLK 5 6 I, the undersigned authority, 7 certify that THOMAS KATO remotely appeared 8 before me and was duly sworn. 9 WITNESS my hand and official seal 10 this 17th day of October, 2023. 11 12 13 14  15 16 Rhonda Hall-Breuwet, RDR, CRR, CSR, LCR, CCR, FPR 17 NCRA Realtime Systems Administrator 18 Notary Public - State of Florida 19 My Commission Expires: 9/28/27 20 Commission No. HH 414033 21 22 23 24 25</p>

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Page 369	Page 371																																																							
<p>1 CERTIFICATE OF STENOGRAPHER</p> <p>2 STATE OF FLORIDA:</p> <p>3</p> <p>4 I, RHONDA HALL-BREUWET, RDR, CRR,</p> <p>5 CSR, LCR, CCR, FPR, NCRA Realtime Systems</p> <p>6 Administrator, shorthand reporter, do hereby</p> <p>7 certify:</p> <p>8 That the witness whose deposition is</p> <p>9 hereinbefore set forth was duly sworn, and that</p> <p>10 such deposition is a true record of the</p> <p>11 testimony given by such witness.</p> <p>12 I further certify that I am not</p> <p>13 related to any of the parties to this action by</p> <p>14 blood or marriage, and that I am in no way</p> <p>15 interested in the outcome of this matter.</p> <p>16 IN WITNESS WHEREOF, I have hereunto</p> <p>17 set my hand this 17th day of October, 2023.</p> <p>18</p> <p>19 </p> <p>20</p> <p>21</p> <p>22 RHONDA HALL-BREUWET, RDR, CRR, CSR, LCR, CCR, FPR,</p> <p>23 NCRA Realtime Systems Administrator</p> <p>24 Shorthand Reporter</p> <p>25</p>	<p>1 DECLARATION UNDER PENALTY OF PERJURY</p> <p>2</p> <p>3 I, THOMAS KATO, do hereby certify:</p> <p>4 That I have read the foregoing deposition;</p> <p>5 That I have made such changes in form and/or</p> <p>6 substance to the within deposition as might be necessary</p> <p>7 to render the same true and correct;</p> <p>8 That having made such changes thereon, I hereby</p> <p>9 subscribe my name to the deposition.</p> <p>10 I declare, under penalty of perjury, that the</p> <p>11 foregoing is true and correct.</p> <p>12</p> <p>13 Executed this _____ day of</p> <p>14 _____, 2023, at _____,</p> <p style="text-align: center;">(MONTH) (CITY)</p> <p>15 _____.</p> <p style="text-align: center;">(STATE)</p> <p>16</p> <p>17</p> <p>18 _____</p> <p style="text-align: center;">THOMAS KATO</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>																																																							
<p style="text-align: right;">Page 370</p> <p>1 ERRATA SHEET FOR THE TRANSCRIPT OF:</p> <p>2 Case Name: KITCHEN WINNERS NY INC. v. ROCK FINTEK LLC;</p> <p>3 ROCK FINTEK LLC v. KITCHEN WINNERS NY INC. and</p> <p>4 ADORAMA INC., HERSHEY WEINER, JOSEPH</p> <p>5 MENDLOWITZ, JNS CAPITAL HOLDINGS LLC and JOEL</p> <p>6 STERN</p> <p>7 Dep. Date: October 3, 2023</p> <p>8 Deponent: THOMAS KATO, as 30(b)(6)</p> <p>9 representative of Rock Fintek LLC</p> <p>10</p> <p>11 CORRECTIONS:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;">Pg.</th> <th style="width: 10%;">Ln.</th> <th style="width: 20%;">Now Reads</th> <th style="width: 20%;">Should Read</th> <th style="width: 40%;">Reason</th> </tr> </thead> <tbody> <tr><td>8</td><td>—</td><td>—</td><td>—</td><td>—</td></tr> <tr><td>9</td><td>—</td><td>—</td><td>—</td><td>—</td></tr> <tr><td>10</td><td>—</td><td>—</td><td>—</td><td>—</td></tr> <tr><td>11</td><td>—</td><td>—</td><td>—</td><td>—</td></tr> <tr><td>12</td><td>—</td><td>—</td><td>—</td><td>—</td></tr> <tr><td>13</td><td>—</td><td>—</td><td>—</td><td>—</td></tr> <tr><td>14</td><td>—</td><td>—</td><td>—</td><td>—</td></tr> <tr><td>15</td><td>—</td><td>—</td><td>—</td><td>—</td></tr> <tr><td>16</td><td>—</td><td>—</td><td>—</td><td>—</td></tr> <tr><td>17</td><td>—</td><td>—</td><td>—</td><td>—</td></tr> </tbody> </table> <p>18</p> <p>19 _____</p> <p>20 Signature of Deponent</p> <p>21 SUBSCRIBED AND SWORN BEFORE ME</p> <p>22 THIS _____ DAY OF _____, 2023</p> <p>23</p> <p>24 _____</p> <p>25 (Notary Public) MY COMMISSION EXPIRES: _____</p>	Pg.	Ln.	Now Reads	Should Read	Reason	8	—	—	—	—	9	—	—	—	—	10	—	—	—	—	11	—	—	—	—	12	—	—	—	—	13	—	—	—	—	14	—	—	—	—	15	—	—	—	—	16	—	—	—	—	17	—	—	—	—	Empty space for page 371 content
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